

# PROFESSOR ZACHARY DOUGLAS KC

## Academic Career

<i>Current positions</i>	Professor of International Law, Geneva Graduate Institute, 2016- Director, Masters of International Dispute Resolution, Geneva, 2024- Full Professor of Law, LUISS, Rome, 2024-
<i>Previous positions</i>	Board Member, Masters of International Dispute Settlement (MIDS), Geneva, 2011-2024 Associate Professor, Geneva Graduate Institute, 2011-2016 Visiting Professor, LUISS, Rome, 2023 Visiting Professor, Paris Arbitration Academy, 2014, 2019, 2024 Visiting Professor, Université Panthéon-Assas Paris II, 2013 Lecturer in Law, University of Cambridge, 2007-2011 Fellow and Dean, Jesus College, Cambridge, 2007-2011 University College London, Lecturer in Law, 2005-2007

## Legal Qualifications and Other Professional Experience

<i>Professional qualifications</i>	Barrister and King's Counsel, Supreme Court of England
<i>Current bar affiliation</i>	Member, 3VB Chambers
<i>Previous law firm experience</i>	Senior Associate, Freshfields Bruckhaus Deringer, Paris, 2001-2005 Associate & Trainee, Cameron McKenna, London, 1998-2000

## Education

<i>Degrees</i>	Bachelor of Arts and Bachelor of Laws (Hons), University of Melbourne Bachelor of Civil Laws, University of Oxford [a masters degree] Master of Arts, University of Cambridge PhD, University of Cambridge
<i>Awards</i> <i>(Oxford University)</i>	<i>Proxime Accessit</i> Vinerian Scholarship (Second Place in the BCL) John Morris Prize for First Place in Conflict of Laws First Place in Transnational Commercial Law

*Awards*  
(Melbourne University)

First Class Honours  
Butterworths Prize for Torts  
Winner of Junior Mooting Competition  
Winner of Governor-General's Moot

*Other Awards*

English Law Society Prize for Essay on Human Rights,  
2002  
Global Arbitration Review, Best Lecture, 2022  
Legal 500 Arbitrator of the Year, 2023

### Principal Publications

*Monographs and book  
chapters*

‘The Distinction between Disputes and Claims and the Question of Time: from *Mavrommatis* to the *Marshall Islands*’ in A. Gattini & M. Dimetto (eds), *Time and International Adjudication* (2024) pages 59-79

‘International Responsibility for Interference with Contracts: a Critique of *Vigotop v Hungary*’ in J. Viñuales, A. Clapham, L. Boisson de Chazournes & M. Hébié (eds), *The International Legal Order in the XXIst Century: Essays in Honour of Professor Marcelo Gustavo Kohen* (2024)

« *L'équilibre Etat/Investisseur dans le contentieux de l'investissement* » Edited Volume Commemorating the 100th Anniversary of IHEID at University de Paris II Assas

‘When does an Investment Treaty Claim Arise? An Excursus on the Anatomy of the Cause of Action’ in *LAI Series on International Arbitration: No. 8 Ratione Temporis* (Juris Publishing, 2018) pages 321-358

Part VI ‘Financial Crime and Private International Law’, in Sir W. Blair & R. Brent (eds), *Banks and Financial Crime: The International Law of Tainted Money* (Oxford University Press, 2<sup>nd</sup> edition, 2017), Chapters 13-18 (‘Introduction’, ‘Money Had and Received’, ‘Know Receipt’, ‘Dishonest Assistance’, ‘Deceit’, ‘Conspiracy’) pages 325-380

*Cinq problématiques d'actualité en droit des investissements*, (Editions Pedone, 2015) 64 pages

‘Chapter 24: Property Rights as the Object of An Expropriation: *Emmis v. Hungary*, ICSID Case No. ARB/12/2’ in *Building International Investment Law: The First 50 Years of ICSID*, M. Kinnear (ed.) (Kluwer Law International, 2015) 18 pages

*The Foundations of International Investment Law: Bringing Theory into Practice*, Z. Douglas, J. Pauwelyn and J. Viñuales (eds.) (Oxford University Press, 2014)

‘Property, Investment and the Scope of Investment Protection Obligations’ in *The Foundations of International Investment Law: Bringing Theory into Practice*, Z. Douglas, J. Pauwelyn and J. Viñuales (eds.) (Oxford University Press, 2014) pages 363-409

‘Assistance to the Tribunal: options, advantages and dangers’, *Inside the Black Box: How Arbitral Tribunals Operate and Reach Their Decisions* - ASA

Special Series No. 42, B. Berger and M. E. Schneider (eds.) (Juris Publishing, 2014) pages 87-92

‘The Enforcement of Environmental Norms in Investment Treaty Arbitration’ in *Harnessing Foreign Investment to Promote Environmental Protection*, P.-M. Dupuy and J. Viñuales (eds.) (Cambridge University Press, 2013) pages 415-445

‘Transposing the Principles Governing the Plea of Illegality in Commercial Arbitration into the Domain of Investment Treaty Arbitration’ in *New Developments in Commercial Arbitration 2012* (Schulthess, 2012) pages 1-28

Chapter 54 on ‘The ICSID Regime of State Responsibility’ in J. Crawford, A. Pellet & S. Olleson (eds), *The Law of International Responsibility* (Oxford University Press, 2010) pages 815-42

*The International Law of Investment Claims* (Cambridge University Press, 2009) 616 pages

Part VI ‘Financial Crime and Private International Law’, in Sir W. Blair & R. Brent (eds), *Banks and Financial Crime: The International Law of Tainted Money* (Oxford University Press, 1<sup>st</sup> edition, 2008), Chapters 13-18 (‘Introduction’, ‘Money Had and Received’, ‘Know Receipt’, ‘Dishonest Assistance’, ‘Deceit’, ‘Conspiracy’) pages 335-400

‘Indirect Expropriation’ (with Jan Paulsson) in N. Horn (ed) *Arbitrating Foreign Investment Disputes* (2004) pages 145-158

#### Articles

‘Killing It Softly: the ILC’s Articles on State Responsibility’ (2024) *ICSID Review: Special Edition* (forthcoming)

‘The Umbrella Clause Revisited’ (2023) 38 *ICSID Review—Foreign Investment Law Journal* pages 472-483

‘Instead of Principles, Slogans’ (2023) 38 *ICSID Review—Foreign Investment Law Journal* pages 1-14

‘International Responsibility for Domestic Adjudication: Denial of Justice Deconstructed’ (2014) Vol. 63 *International and Comparative Law Quarterly* pages 867-900

‘The Plea of Illegality in Investment Treaty Arbitration’ (2014) *ICSID Review-Foreign Investment Law Journal* pages 1-32

‘State Immunity for the Acts of State Officials’ (2011) Vol.82 *British Yearbook of International Law* pages 281-348

‘The MFN Clause in Investment Arbitration: Treaty Interpretation Off the Rails’ (2011) Vol. 2 *Journal of International Dispute Settlement* pages 97-114

‘Can a Doctrine of Precedent be Justified in Investment Arbitration?’ (2010) Vol. 25 *ICSID Review—Foreign Investment Law Journal* pages 104-110

‘Nothing if Not Critical for Investment Treaty Arbitration: *Occidental, Eureko* and *Methanex*’ (2006) Vol. 22 *Arbitration International* pages 27-51

‘The Hybrid Foundations of Investment Treaty Arbitration’ (2003) Vol. 74 *British Yearbook of International Law* pages 151-289

‘Do Terrorists Have Human Rights?’ (2002) Vol. 152 No. 7053 *New Law Journal* pages 1621-9

'Developments in the Regulatory Framework for Oil Transportation in the Russian Federation' (2000) Vol. 18 No. 1 *Journal of Energy and Natural Resources Law* pages 105-111

'Constitutional Foundations of Russian Federalism' (1999) Vol. 4 *Sudebni* pages 823-868

### Professional activities

*Appointments as arbitrator in investor/state cases*

(ICSID)

*Veolia Propreté v Arab Republic of Egypt*

*Slovak Gas Holding BV, GDF International SAS and E.ON Ruhrgas International GmbH v Slovak Republic*

*Accession Mezzanine Capital L.P. and Danubius Kereskedőház Vagyongézelő Zrt. v Hungary*

*Standard Chartered Bank (Hong Kong) Limited v Tanzania*

*Indorama International Finance Limited v Arab Republic of Egypt*

*Mercer International Inc. v Canada*

*Orange S.A. v Hashemite Kingdom of Jordan*

*Beijing Urban Construction Group Co. Ltd v Republic of Yemen*

*Fábrica de Vidrios Los Andes, C.A. and Owens-Illinois de Venezuela, C.A. v Venezuela*

*Mathias Kruck and others v Kingdom of Spain*

*Stadtwerke München GmbH, RWE Innogy GmbH, and others v Kingdom of Spain*

*Koch Minerals v Venezuela*

*Italba Corporation v Uruguay*

*Gabriel Resources v Romania*

*Champion Holding Co v Arab Republic of Egypt*

*JSC Tashkent Mechanical Plant v Kyrgyz Republic*

*Görkem İnşaat Sanayi v Turkmenistan*

*J&P-AVAX SA v Lebanese Republic*

*Omega Engineering v Panama*

*Smurfit v Venezuela*

*Rizvani de Eccher S.p.A. et al v Kuwait*

*BM Muhendislik v United Arab Emirates*

*SECE İnşaat ve Ticaret A.Ş v Turkmenistan*

*Scholz v Morocco*

*Daniel Kappes v Guatemala*

*Sacyr, S.A. v Panama*  
*Edmond Khudyan v Armenia*  
*Gardabani Holdings B.V. et al v Georgia*  
*Bank of Nova Scotia v Peru*  
*International Mining Company Invest, Inc. v Kyrgyz Republic*  
*Coropi Holdings Limited, Kalemegdan Investments Limited and Erinn Bernard Broshko v Republic of Serbia*  
*Huawei Technologies Co., Ltd. v Kingdom of Sweden*  
*Alamos Gold Holdings Coöperatief U.A. and Alamos Gold Holdings B.V. v Republic of Türkiye*  
*KGL International for Ports, Warehousing, and Transport K.S.C.C. v Arab Republic of Egypt*  
*Abron G. Frenkel v Republic of Croatia*  
*Eni International B.V., Eni Oil Holdings B.V. and Nigerian Agip Exploration Limited v. Federal Republic of Nigeria*  
*Goh Chin Soon v People's Republic of China*  
*Ayat Nizar Raja Sumrain and others v State of Kuwait*  
*Société Resort Company Invest Abidjan, Stanislas Citerici and Gérard Bot v Republic of Côte d'Ivoire*  
*Emergofin B.V. and Velbay Holdings Ltd. v Ukraine*  
*Westmoreland Mining Holdings, LLC v Canada*  
*SEJ HK Holding Limited and Zibeck Limited v The Government of Japan*  
*Ruby River Capital LLC v Canada*  
*Highbury International v Venezuela*  
*Misen Energy & Misen Enterprises v Ukraine*  
*Libyan Investment Authority v Kingdom of Belgium*  
*Corporación Nacional del Cobre de Chile, Exploraciones Mineras Andinas S.A. e Inversiones Copperfield SP v República del Ecuador*  
*Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v Mexico*

*Appointments as arbitrator in investor/state cases (PCA)*

*Oleoducto de Crudos Pesados (OCP) Ecuador S.A. & Oleoducto de Crudos Pesados (OCP) Ltd. v The Republic of Ecuador*  
*Mr. Oleg Vladimirovich Deripaska (Russian Federation) v The State of Montenegro*  
*Erhas Dis Ticaret and others v Turkmenistan*  
*ConocoPhillips v Vietnam*  
*OJSC Belaruskali v Republic of Lithuania*  
*Ndroqi v Albania*  
*Wang Jing et al v Ukraine*  
*Maxis Communications and Global Communication Services v India*  
*SEJ HK Holding Limited and Zibeck Limited v Japan*

*Other appointments in other investor/state cases*

*Festorino v Poland (SCC)*

*Way2B v Libya & ODAC (ICC)*

*Qatar Airways v Saudi Arabia (ad hoc)*

*SL Mining Ltd v Sierra Leone (ICC)*

*Simplex v Libya (ICC)*

*Selmani v Kosovo (ICC)*

*Activities as counsel*

Formerly instructed as lead counsel in investor-state arbitrations under the ICSID and UNCITRAL arbitration rules including: *EMV v Czech Republic*, *Frontier v Czech Republic*, *Suez v Argentina*, *Vivendi v Poland*, *Chevron v Ecuador*, *KT Asia v Kazakhstan*, *Lugzor et al v Russian Federation*, multiple cases under the Energy Charter Treaty and various BITs arising out of changes to the solar energy legislation in the Czech Republic and several other cases not in the public domain. Instructed as junior counsel in *Invesmart v Czech Republic*, *CEZ v Albania* and the ICSID annulment proceedings in *Azurix v Argentina*. Also counsel in *Saluka v Czech Republic*.

Counsel in numerous commercial arbitrations under ICC, LCIA, SCC and UNCITRAL Arbitration Rules, especially involving parties from Russia and the Caspian Region. Instructed as lead counsel in applications under the Arbitration Act 1996 before the English High Court (e.g. *Ruby Roz v Kazakhstan*) and formerly junior counsel (e.g. *Czech Republic v EMV*).

Lead counsel in cases before the English Courts (Privy Council, Court of Appeal, High Court) and other municipal courts involving issues of non-justiciability, the act of state doctrine, state immunity, state succession, human rights and humanitarian law, international law aspects of money laundering and private international law: e.g. *Sophocleous v Secretaries of State*, *Botas v Tepe*, *Nyoro et al v Foreign & Commonwealth Office* (Kenyan Emergency Group Litigation), *Campaign Against the Arms Trade v Secretary of State* (for Oxfam intervening), *Pearl Petroleum Company Limited v Kurdistan Regional Government of Iraq*, *C3 & C4 v Secretary of State for Foreign, Commonwealth and Development Affairs* (habeas corpus). Formerly junior counsel: *Al Haq v Secretaries of State*, *Ndiku Mutua v Foreign & Commonwealth Office* (the 'Mau Mau' case), *Chong Nyok Keyu et al v Secretaries of State* (the 'Batang Kali' case), *Serdar Mobammed v Ministry of Defence*, *JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev*.

Counsel in the first significant dispute concerning the UK's obligations under the Paris Agreement on Climate Change before the Court of Appeal: *Friends of the Earth v Secretary of State for International Trade*.

Instructed by Georgia in proceedings against the Russian Federation before the International Court of Justice and by Croatia in its maritime boundary and territorial dispute with Slovenia.

Advice on public international law to governments and companies in contentious and non-contentious matters in the areas of the law of the

sea (especially maritime boundaries), treaty law, sovereign immunity, international human rights, international investment law, international humanitarian law (especially in relation to occupying powers in Iraq), international organizations. Recent legal opinion for Pew Foundation on the legality of a moratorium on deep seabed mining.

Counsel in cases before the European Court of Human Rights involving questions of public international law such as state immunity: e.g. *Jones & Mitchell v United Kingdom*, *Chong Nyok Keyu et al v United Kingdom*.

*Appointments in commercial arbitrations*

Appointed as arbitrator in arbitrations under the LCIA, UNCITRAL, ICC, SCC, SIAC and Swiss Rules. Recent appointments include acting as chairperson in three separate ICC arbitrations concerning the Korean banking sector, the energy sector in Central Africa and the telecommunications sector in Southern Africa as well as the sole arbitrator in an LCIA arbitration relating to the alleged expropriation of a port facility in East Africa. Other recent cases include acting as chairperson in a dispute concerning a supply agreement in the nuclear energy sector, chairperson in a Swiss Rules arbitration concerning a corporate dispute in the steel sector; chairperson in multiple LCIA arbitrations concerning a shareholders' dispute involving a major Russian bank; sole arbitrator in three related LCIA cases relating to franchise and marketing agreements; co-arbitrator in an LCIA case concerning a shipbuilding contract; chairperson in an LCIA case relating to a share purchase agreement; chairperson in an ICC arbitration concerning a purchase agreement for crude oil; co-arbitrator in an ICC arbitration involving a contract with a state oil company; and many others.