



## Maria Kostytska

Partner

Paris

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Maria is head of the arbitration practice of the firm's Paris office. She acts as lead counsel in investor-state and commercial arbitration and litigation across a variety of industrial sectors, including oil and gas, renewable energy, utilities, infrastructure, banking, aviation and manufacturing. She also serves as arbitrator.

Maria Kostytska is an international arbitrator and litigator who is multi-lingual in English, French, Ukrainian, Russian, and Spanish. She is admitted to the bars of New York, District of Columbia, Paris, England and Wales (barrister). Maria acts as lead counsel in investor-state, state-to-state and commercial arbitrations under the ICSID, UNCITRAL, ICC, LCIA and SCC Rules. Maria also serves as a presiding, sole and co-arbitrator. Her arbitration and litigation experience spans a variety of industrial sectors, including oil and gas, renewable energy, utilities, infrastructure, banking, aviation and manufacturing.

Maria is a Court Member of the ICC International Court of Arbitration in Paris. She is also a member of the Panel of Arbitrators of the Singapore International Arbitration Centre (SIAC). She has previously served on the Council of the Georgian International Arbitration Centre (GIAC) in Tbilisi.

Maria is a lecturer at the Versailles University, Masters in Arbitration and International Commerce (MACI), where she lectures on investment arbitration.

Prior to joining Winston, Maria has worked and undergone training at the U.S. Court of Federal Claims (Washington), World Bank's Legal Department (Washington), ABA/CEELI (Washington), UNECE and UNEP (Geneva), and the European Parliament (Brussels).

## Key Matters

### Representative experience as counsel:

#### UNCITRAL

- Acting as lead counsel for the Republic of Ecuador in an investment treaty arbitration lodged by a U.S. "investor" in a highly regulated sector.
- Acting as lead counsel in the first renewable energy arbitration lodged against Ukraine under the Energy Charter Treaty (ECT) for alleged modification of the green-tariff incentives regime.
- Acted as lead counsel for Ukraine in a state-to-state/investor-state arbitration lodged by a territorial unit of a State and its state organ, and involving allegations of a takeover of the largest oil refinery in Ukraine.
- Acting as cross-jurisdictional counsel for Ukraine in judicial proceedings for annulment, recognition and enforcement of an investment arbitral award rendered in favor of a Russian state-owned oil company before French, U.S. and English courts of all levels.
- Acting as lead counsel in a state-to-state/investment dispute raising the issue of whether a State or a territorial unit of a State can claim "investor" status under a BIT.
- Represented a Swiss investor against an Eastern European State in an investment treaty arbitration arising out of the 2008 financial crisis.
- Represented Ecuador in an arbitration brought by Chevron involving allegations of denial of justice and breaches of a BIT.
- Represented Ecuador in an investment treaty arbitration involving allegations of undue delay and manifestly erroneous decisions by Ecuadorian courts in seven commercial cases.
- Represented a multinational tobacco company in an investment treaty arbitration against an Asian State.

#### ICSID

- Represented a Swiss investor against an Eastern European State during the early stages of an investment treaty arbitration in the renewable energy sector arising out of a change of the incentives regime.
- Represented a French provider of meal vouchers against Hungary in an ICSID arbitration arising out of an alleged expropriation of a business due to the change of the tax regime.
- Successfully defended Jordan in two parallel ICSID and ICC arbitrations brought by a railway company and its Kuwaiti shareholders. This US\$1 billion win was recognized in June 2013 as one of the "Top 10 Biggest Defense Wins" in the *American Lawyer's Arbitration Scorecard*.
- Obtained a victory at the jurisdictional stage for Ecuador and its State-owned company PetroEcuador in an ICSID arbitration brought by an American energy company involving an imposition of a windfall tax on oil profits and collection proceedings.
- Successfully represented Ecuador and its State-owned company PetroEcuador in an ICSID arbitration brought by a Spanish energy company involving an imposition of a windfall tax on oil profits and collection proceedings.

- Represented a French national in an ICSID annulment proceeding relating to the State's intervention into and liquidation of a bank.
- Represented a French utility company during the early stages of an ICSID arbitration arising out of a concession to provide waste collection and treatment services to a municipality of an Arab State.
- Represented an American energy company in an enforcement proceeding of a favorable ICSID award against Argentina in the United States, France, and Spain.

## ICC

- Successfully represented an American glass manufacturer in an ICC arbitration arising out of an acquisition agreement with a Belgian glass manufacturer.
- Represented an Eastern European energy company in an investment treaty arbitration against an Eastern European State involving tariff fixing.
- Represented a Russian subsidiary of a French automobile manufacturer in an ICC arbitration against a Russian transporter arising out of a breach of a transportation contract.
- Successfully represented a French transmission grid provider against an Italian electricity supplier in an ICC arbitration arising out of a breach of access rules.
- Advised a Spanish fruit producer in connection with a dispute with its Tunisian joint venture partner.
- Represented Tunisian companies against a multinational corporation in an ICC arbitration arising out of a wrongful termination of a commercial representation agreement.
- Represented a British online content provider against its Spanish distributor in an ICC arbitration under English law with a seat in Paris.

## Litigation experience:

- Acting as cross-jurisdictional lead counsel for Ukraine in judicial proceedings for annulment, recognition and enforcement of an investment arbitral award rendered in favor of a Russian state-owned oil company before French, U.S. and English courts of all levels.
- Acted as lead counsel in French annulment proceedings in a state-to-state/investor-state dispute raising the issue of whether a State or a territorial unit of a State can claim "investor" status under a BIT.
- Represented an Eastern European State in European Court of Justice proceedings involving imposition of EU sanctions on a former head of state.
- Successfully obtained recognition in the United States of an ICSID award rendered in favor of an Eastern European State.
- Handled enforcement of an ICC award rendered in favor of an Iraqi construction company and against an Indian engineering and manufacturing company.
- Successfully defended Eastern European companies in a complex antitrust action before U.S. district and appellate courts.

## Experience as arbitrator:

- Acting as a sole arbitrator in a Kyiv-seated ICAC (MKAC) arbitration in the mining sector between a Ukrainian state-owned supplier and a European distributor.
- Acted as president in a Kyiv-seated ICAC (MKAC) arbitration arising out of a professional services agreement relating to the transfer of equipment and know-how from the United States to Ukraine.
- Acted as a co-arbitrator in a London-seated LCIA arbitration in the aviation sector.

- Acted as a co-arbitrator in a Geneva-seated, Swiss law-governed ICC arbitration arising out of a solar energy project in Kazakhstan and involving Kazakh and French state entities.
- Acted as a co-arbitrator in a complex London-seated LCIA arbitration relating to an alleged takeover of the largest Russian ceramic tile business.
- Acted as a co-arbitrator in a London-seated LCIA arbitration relating to a division of assets, with Russian and Cyprus applicable law.
- Served as president in an ICAC (MKAC) arbitration arising out of a professional services agreement for transfer of special-purpose equipment from the United States to Ukraine.
- Served as a co-arbitrator in an ICAC (MKAC) arbitration concerning supply of pharmaceutical products by a Ukrainian supplier to a Brazilian state-owned buyer.
- Served as a co-arbitrator in an ICAC (MKAC) arbitration between a major Russian chemical company and a Ukrainian State-owned chemical company regarding transit of chemicals across Ukraine.
- Served as a sole arbitrator in a Stockholm-seated ICC arbitration relating to an offshore gas exploration project in Turkmenistan.
- Served as a sole arbitrator in two parallel London-seated, English law-governed LCIA arbitrations arising out of credit agreements between Russian, Cyprus and BVI parties.
- Acted as a sole arbitrator in a London-seated, English law-governed LCIA arbitration regarding sale of snow melting equipment involving UK and U.S. parties.
- Served as a co-arbitrator in a London-seated LCIA arbitration relating to a credit agreement in the agricultural sector, with Cyprus and Ukrainian applicable law.
- Served as co-arbitrator in a London-seated LCIA arbitration involving Cyprus and Russian parties arising out of a charter of a marine vessel.
- Served as a sole arbitrator in an *ad hoc* UNCITRAL arbitration between American and French professional services providers, with a seat in Paris and French applicable law.
- Sat as a co-arbitrator in an *ad hoc* UNCITRAL sale of goods arbitration between a Hong Kong IT equipment manufacturer and a Ukrainian IT equipment distributor, with a seat in Stockholm and Hong Kong applicable law.

## Recognitions

Maria is recognized in *Who's Who Legal: Arbitration* 2022 and 2023 as a "Future Leader" (Partners). Maria has been ranked in the *The Legal 500 US* in recent years. For three consecutive years in 2014, 2015, and 2016, her Paris team won a Bronze award of *Palmares des Avocats*, scoring third among 100 leading law firms, based on a multi-factor client-only rating system. Maria is recognized in the 2021 and 2023 editions of *Lawdragon 500's* "Leading Global Litigators".

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# Activities

Maria is a member of the following professional associations:

- ICC Commission on Arbitration and ADR
  - ICC France
  - ICC Ukraine
  - ICC USCIB
  - *Comité Français de l'Arbitrage*
  - *Association Française de l'Arbitrage*
  - ABA International Law Section
  - NYSBA International Law Section
  - IBA, Litigation and International Arbitration Committees
  - Ukrainian Bar Association (UBA), International Law and Energy Committees
  - Ukrainian Arbitration Association (UAA), Board Member
  - *Club Español de Arbitraje, Capítulo Francés y MUJERES*
  - Arbitral Women
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## Credentials

### EDUCATION

Maria received her I.B. from Red Cross Nordic United World College in 1997, B.A. from Smith College in 2001, and her J.D. from Catholic University in 2005.

### ADMISSIONS

- District of Columbia
- Paris, France
- New York
- England & Wales – Barrister

### LANGUAGES

- French
- Spanish
- Russian
- Ukrainian

## Related Insights & News

## SPEECHES

- “III Energy Law Conference” hosted by the Ukrainian Bar Association (September 2023)
- “Evolution or Revolution: Have We Mastered International Arbitration or Do We Need a New Blueprint for the Future?” in Stockholm (August 2023)
- “Arbitration in Wartime” at Le Café des Arbitres (June 2023)
- “Claims arising from the war in Ukraine: the role of the English jurisdiction” with support of the Ukrainian Bar Association (May 2023)
- “The war in Ukraine: legal mechanisms for recovery of losses” jointly with the Ukrainian Arbitration Association (UAA) (March 2023)
- Due Process Paranoia in International Arbitration, as part of the panel on Procedural Efficiency in International Arbitration, at the conference organized under the auspices of the International Commercial Arbitration Court of Ukraine (ICAC or MKAC) (October 2019)
- Winston & Strawn co-sponsored an ICC training on *Drafting Enforceable Awards* in Kyiv, Ukraine (September 2019)
- “Shareholder disputes in the CIS,” Paris Arbitration Week, Paris (April 2018)
- “Jurisdiction over a sovereign in recognition and enforcement proceedings” and “Cross-jurisdictional cooperation between lawyers,” C5 conference on international disputes and assets recovery in the CIS, London (January 2018)
- “2017 Rules: Changes Explained: Transparency,” ICC-ICC-Ukraine side event at the Kiev Arbitration Days, Kiev (November 2017)
- “Immunity from attachment and execution,” Baltic Arbitration Days, Riga (June 2017)
- “How geopolitical tensions are shaping energy disputes,” ICDR oil and gas arbitration conference, Houston (April 2017)
- “The U.S. and EU sanctions as a defense to non-performance of legal obligations,” CEA conference, Warsaw (May 2015)
- “Legal remedies available to state-owned and private companies in connection with the situation in the Crimea and Eastern Ukraine,” Kiev inter-ministerial seminar (December 2015)
- “The Russian food import ban as a countermeasure to the U.S. and EU sanctions, and legal remedies to address it” Kiev Arbitration Days (November 2015)
- “Preparation of expert witnesses for examination: the do’s and don’ts,” Swedish Arbitration Days (September 2014)
- “How not to pay and get your money back . . . in international arbitration,” Winston client seminar, Paris (July 2013)
- “Annulment and enforcement of arbitral awards in France, Switzerland and Tunisia,” Tunisian Ministry of Justice conference, Tunis (April 2013)
- Nationality planning, treaty shopping and denial of benefits, ICC YAF oil and gas arbitration conference, Geneva (January 2013),
- “Pathological arbitration clauses,” Winston client seminar, Paris (November 2012)
- “Jurisdiction over investment and investor,” International Law Institute (ILI) seminar, Washington, D.C. (November 2012)
- “Methodology of proof in international arbitration,” Ukrainian Ministry of Internal Affairs conference, Kiev (November 2012)
- “The use of valuation experts,” ABA conference, Moscow (September 2012)
- “Damages in international arbitration,” ICC YAF conference and Winston client seminar, Paris (July 2012)

- “Drafting of arbitration clauses and the binding effect of arbitration clauses on non-signatories,” ILI advanced arbitration seminar, Washington, D.C. (November 2011)
- “Independence and impartiality of arbitrators,” ICC YAF conference, Prague (October 2011)
- “Selection and appointment of arbitrators,” ICC PIDA seminar, Paris (October 2011)
- “Applicable law in investment arbitration,” ILI seminar, Washington, D.C. (November 2010)
- “Invoking human rights standards and precedents in investment arbitration,” ILA conference, the Hague (September 2010)
- “Arbitration, litigation, and mediation of investor-State disputes,” UNCTAD and Ukrainian Ministry of Justice conference, Kiev (October 2009)

## PUBLICATIONS

- Sovereign Immunity in France, LEXOLOGY (2023)
- Enforcement of Foreign Judgments in the United Kingdom, LEXOLOGY (2023)
- Jordan chapter, *GAR Investment Treaty Arbitration Know-How* (2015)
- Book review of Gary Born’s “International Arbitration: Law and Practice,” *Pravo Ukrainy* (2013)
- “Le contrôle post-arbitral de la sentence arbitrale internationale : Regards croisés en droit français, suisse et tunisien,” *Pédone* (2013)
- “Declaratory Relief in International Arbitration,” *Journal of International Arbitration*, Kluwer (2012)
- *Fuchs v. Georgia*, case digest, *International Arbitration Case Law and GAR* (2011)
- Ukraine dispute resolution chapter, *Getting the Deal Through and Transnational Dispute Management* (2006)

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## RECOGNITIONS

Winston Paris Teams Win Palmarès du Droit 2024 International Law Firm of the Year Award  
MARCH 26, 2024

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## RECOGNITIONS

Winston & Strawn Recognized in *Global Arbitration Review's* GAR100 17<sup>th</sup> Edition  
MARCH 22, 2024

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## ARTICLE

Partner Maria Kostytska Authors the U.S. Chapter on Cross-Border Enforcement of Judgments Against States  
MARCH 15, 2024

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## SPONSORSHIP

Winston & Strawn Sponsors ABA ILS Energy Conference  
FEBRUARY 27, 2024

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## RECOGNITIONS

Winston Attorneys Recognized in *Who's Who Legal: Arbitration* 2024  
DECEMBER 7, 2023

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## RECOGNITIONS

Maria Kostytska Selected to Become a Member of the Singapore International Arbitration Centre (SIAC) Panel of Arbitrators

NOVEMBER 20, 2023

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## ARTICLE

Maria Kostytska Contributes to *Lexology's Getting the Deal Through – Sovereign Immunity France*

OCTOBER 16, 2023

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## ARTICLE

Maria Kostytska Contributes to *Lexology's Getting the Deal Through – Enforcement of Foreign Judgments*

AUGUST 28, 2023

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## RECOGNITIONS

Winston Attorneys Featured on *Lawdragon's* 500 Leading Global Litigators List 2023

JULY 21, 2023

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## RECOGNITIONS

Winston & Strawn Attorneys Recognized in *The Best Lawyers™ in France* 2024

JUNE 22, 2023

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## CLIENT ALERT

Winston & Strawn's 2023 Pocket Guide to International Arbitration

MAY 2023

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## NEWS

2022 Pro Bono Impact Report

MAY 1, 2023

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# Capabilities

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Litigation/Trials

International Arbitration

Energy Transition

Oil & Gas

Energy

Financial Services