

## Mark Wassouf

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Year Of Call: **2014**



Mark is a leading junior barrister for complex commercial disputes who has substantial experience of both court and arbitration advocacy. The legal directories praise Mark as a **“mature and sophisticated”** advocate who has **“strong experience in commercial litigation and arbitration”** and **“a keen eye for both the detail and the bigger picture”** (Legal 500 2022). He is described as **“a consummate professional and a fantastic lawyer”** who **“works very hard”** and is **“very impressive on his feet”** (Chambers & Partners 2022).

Mark maintains a busy and wide-ranging commercial disputes practice. He is regularly instructed, either as sole counsel or as part of a counsel team, on a broad range of commercial claims, including claims concerning financial services, energy, commodities, infrastructure or corporate M&A. He has appeared unled in the High Court, in the County Courts and before arbitral tribunals in multi-day trials and in relation to the full range of applications. He has particular expertise in arbitration-related court applications and enforcement proceedings, being presently instructed for the Russian Federation in its resistance to the enforcement of the US\$50 billion Yukos award before the English Commercial Court on the grounds of state immunity (instructed by White & Case and led by Laurence Rabinowitz QC and Christopher Harris QC).

Mark is also widely recognised and sought after for his expertise in arbitration and public international law. He has acted as counsel in over 10 investment treaty arbitrations and is identified by the directories as **“one of the go to juniors in the field of international investment arbitration”**. He has represented both states and investors, and is presently instructed on a number of treaty disputes, including as counsel to a Middle Eastern state in a large investment claim under the OIC Agreement concerning an alleged investment in the pharmaceutical sector; counsel to Malaysian investors in Sri Lanka in a US\$100 million wind energy dispute; and counsel to Slovenian investors in Bosnia & Hercegovina in a US\$70 million hydropower dispute.

Further information about Mark’s practice and recent experience is set out under the tabs below.

Mark has worked on cases and projects involving a wide range of jurisdictions. He has particular experience working on cases with a Middle Eastern element and is recognised in Chambers & Partners 2022 as **“an excellent Arabic speaker, which can be very useful in certain international cases”**. He is also ranked by the Legal 500 specifically for commercial disputes work in the Middle East, where he is described as **“highly intelligent”** and an **“an excellent team-player”**.

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## Directory Quotes

"A rising star; always calm and considered, even under pressure."

Legal 500 2018 - 2019

"He never loses sight of the big picture and has a great client manner"

Chambers & Partners 2020

## Expertise

### Commercial Litigation

"*Very responsive, commercial and client focused.*" Chambers and Partners 2020

Mark is regularly instructed either as sole counsel or as part of a counsel team on a range of complex commercial disputes. He has particular expertise in arbitration-related court applications. Highlights of Mark's present Commercial Court practice include:

- Acting for the Russian Federation in its resistance to the enforcement of the US\$50 billion Yukos award before the English courts (instructed by White & Case and led by Laurence Rabinowitz QC and Christopher Harris QC). The proceeding involves complex questions of the interplay between state immunity, public policy and s.103 of the Arbitration Act 1996.
- Acting for the defendant (investor) in *The Federal Republic of Nigeria v Zhongshan* (2021), which is a rare example of a challenge to an investment treaty award under s.67 of the Arbitration Act 1996 (instructed by Withers LLP and led by Christopher Harris QC).
- Acting for Troostwijk Auctions Limited in *Troostwijk Auctions Limited v David Sandham Trading Limited* (2021) in a breach of contract claim and counterclaim involving complex arguments as to implied terms (instructed by Stevens & Bolton LLP as sole counsel).

Mark has also appeared, either led or as sole counsel, in the context of numerous banking and finance-related disputes in the County Courts and High Court, including matters involving commercial contracts, PPI claims, guarantees and the sale of goods. Mark frequently appears as counsel in procedural hearings, trials and in the full range of applications.

### Investment Treaty Arbitration

"*Has an extensive knowledge of the law in relation to investment arbitration and is easy to work with - his drafting skills are first class.*" Legal 500 2021

Mark has acted as counsel (both to claimants and to respondent states) in over ten investment treaty arbitrations. He is regularly instructed to assist with written and oral submissions in complex investment claims and is recognised in the directories as a leading junior at the English bar for

international arbitration.

Recent highlights of Mark's investment treaty arbitration practice include:

- **Viaduct and ors. v Bosnia and Herzegovina** (ICSID Case No. ARB/16/36) - Mark acts as counsel to the claimants in a US\$70 million ICSID claim relating to a renewable energy investment.
- **Carlyle v. Kingdom of Morocco** (ICSID Case No. ARB/18/29) - Mark acts as counsel to the Kingdom of Morocco in a US\$ 400 million ICSID claim brought by U.S. claimants relating to the insolvency of a major refinery (led by Christopher Harris QC, 3VB).
- **Alexander Nelin v. Republic of Cyprus** (ICSID Case No. ARB/18/41) - Mark acts for the claimant in this ICSID investment treaty arbitration concerning the loss of significant deposits following state intervention in a bank (led by Christopher Harris QC, 3VB).
- **KLS Energy v Democratic Socialist Republic of Sri Lanka** (ICSID Case No. ARB/18/39) - Mark acts for the claimants in this ICSID investment treaty arbitration arising out of a project in the renewable energy sector. The case concerns, amongst other things, the state's refusal to abide by contractual obligations and involves questions of attribution under international law (led by Christopher Harris QC, 3VB).
- **Czech investor v European State** (UNCITRAL) - Mark acted for the claimant in this UNCITRAL investment treaty arbitration in the gaming sector, involving the indirect expropriation of the Claimant's business by virtue of a change in the host state's law. The case also involved detailed argumentation on the implications of the CJEU's judgment in Achmea (led by Christopher Harris QC, 3VB).
- **Attila Doğan Construction & Installation Co. Inc. v. Sultanate of Oman** (ICSID Case No. ARB/16/7) - Mark acted for the respondent in this ICSID investment treaty arbitration involving, amongst other things, complex questions on attribution under international law (instructed by Three Crowns LLP).
- **Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others v. Republic of Cyprus** (ICSID Case No. ARB/13/27) - Mark acted for the claimant in this ICSID investment treaty arbitration in connection with the demise of Cyprus's second largest bank. The case also involved detailed argumentation on the implications of the CJEU's judgment in Achmea. Award issued in mid-2018 (led by Tariq Baloch, 3VB and instructed by Three Crowns LLP).

Mark is also frequently instructed to assess the merits of potential investment treaty claims. He has provided merits analyses to potential claimants considering whether to launch a claim, as well as to arbitration funders.

## Commercial Arbitration

*"Smart, practical, professional and comfortable working in different areas of the law."* Chambers & Partners 2021

Mark has acted as counsel in numerous commercial arbitrations and is recognised in the directories as a leading junior at the English bar for international arbitration. He is frequently instructed to assist with both written and oral submissions in commercial arbitrations.

He has acted in commercial claims conducted under the rules of the major arbitration institutions, including the Singapore International Arbitration Centre (SIAC), the London Centre for International Arbitration (LCIA), the International Chamber of Commerce (ICC), the London Maritime Arbitrators Association (LMAA), the United Nations Commission on International Trade Law (UNCITRAL) and the International Centre for the Settlement of Investment Disputes (ICSID).

Highlights of Mark's recent commercial arbitration experience include:

- **Banking dispute in the Middle East (ICC Rules)** - Mark acted for a large Middle Eastern bank in a commercial dispute against an international banking conglomerate. The dispute concerned complex allegations of negligence and fraud, as well as the construction of a contractual indemnity as a matter of Shari'ah law (led by Rupert Reed QC, Serle Court).
- **Aviation dispute in South-East Asia (SIAC Rules)** - Mark acted for the claimant in a large dispute related to the supply of services under a series of contracts in the aviation sector.
- **Dispute between shareholders in a large African oil & gas company (LCIA Rules)** - Mark acted for the respondents in a complex and high value shareholder dispute under the LCIA rules between international parties, arising out of a series of English law-governed loan agreements.
- **Oil & gas major v marine fuel supplier (LMAA Rules)** - Mark acted as sole counsel to the claimant in a LMAA arbitration arising from contracts for the supply of bunkers to two vessels in a port in the UAE.
- **Oil & gas major v Middle Eastern government (UNCITRAL Rules)** - Mark acted for the claimants in a multi-billion dollar claim against a Middle Eastern jurisdiction related to contractual rights to the exploitation of oil and gas resources.
- **Canadian natural resources company v Middle Eastern government (UNCITRAL Rules)** - Mark acted as sole counsel for a Canadian natural resources company, in a contractual arbitration (English law governed) under the ICSID Additional Facility arising from a joint venture with a public body in a Middle Eastern country.

## Public Inquiries

Mark has experience of acting as counsel to public inquiries. He was instructed as junior counsel on a statutory inquiry in England and Wales (under the Inquiries Act 2005) for a number of years. He also has experience of advising on an international inquiry conducted according to UN rules. Current and recent highlights of Mark's public inquiries work include:

- Acted as Junior Counsel to the Independent Inquiry into Child Sexual Abuse in England and Wales, with particular responsibility for the investigation into institutional failures in England and Wales associated with offending abroad (in relation to which Mark was the Lead Junior Counsel). The investigation issued its final report in early 2018. The inquiry has a statutory footing and is mandated to examine whether public bodies and other non-state institutions have taken seriously their duty of care to protect children from sexual abuse in England and Wales (instructed by FieldFisher LLP).
- Advised the Royal Court of the Kingdom of Bahrain on the establishment and operation of the Bahrain Independent Commission of Inquiry chaired by Professor Cherif Bassiouni. Mark was part of a legal team which included Tariq Baloch of 3 Verulam Buildings and Amal Clooney of Doughty Street Chambers. The Commission represented the first time any sovereign state has

willingly established a national commission composed entirely of international commissioners.