



## DAVID A. PAWLAK

Arbitrator, international counsel and advisor

Date of Birth: 26 September 1968  
Address: Aleja Waszyngtona 36A/10, 03-910 Warsaw (Poland)  
Nationality: American, Irish  
Current Position: Arbitrator, international counsel and advisor, David A. Pawlak LLC

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### Professional Experience

- 2005 – present     **David A. Pawlak LLC**  
Arbitrator, international counsel and advisor leading an independent boutique law practice and consultancy, providing cost-effective, results-oriented representation and advisory services in international arbitration, with a focus on investment treaty matters.
- 2001-2005     **U.S. Department of State, Office of The Legal Adviser, Treaty Arbitration Team**  
Attorney-Adviser dedicated exclusively to investment treaty matters as a key member of U.S. team that has prevailed in every investor-State arbitration decided to date.
- 1998-2001     **Milbank, Tweed, Hadley & McCloy**  
Litigation and arbitration associate, New York.
- 1996-1998     **U.S. Department of Justice, Honors Program**  
Assistant District Counsel, New York.
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### Arbitration Experience

- **Selected Treaty Arbitration Cases**
  - *OI European Group B.V. v. Venezuela* (*ad hoc* Committee member (arbitrator)) (ICSID)
  - *Medusa v. State of Montenegro* (UNCITRAL)
  - *MNSS B.V. v. Montenegro* (AFR ICSID)
  - *Elektrogospodarstvo Slovenije - razvoj in inženiring d.o.o. (Slovenia) v. Bosnia and Herzegovina* (ICSID)
  - *BIT Claimant v. Balkan State* (ICSID)
  - *EuroGas v. The Slovak Republic* (early phases and consults advisor) (ICSID)
  - *U.S. Steel Global Holdings I B.V. (Netherlands) v. Slovak Republic* (UNCITRAL)
  - *Slovak Gas Holding BV, GDF Int'l SAS and E.ON Ruhrgas Int'l GmbH v. The Slovak Republic* (ICSID)
  - *European American Investment Bank AG v. Slovak Republic* (UNCITRAL)
  - *Alps Finance and Trade AG v. Slovak Republic* (UNCITRAL)
  - *Austrian Airlines v. Slovak Republic* (UNCITRAL)
  - *The East Cement for Investment Company v. The Republic of Poland* (ICC)
  - *Inmaris Perestroika Sailing Maritime Services GmbH v. Ukraine* (ICSID)
  - *Generation Ukraine v. Ukraine* (ICSID)
  - *Cargill Incorporated v. Republic of Poland* (Initially AFR ICSID, then UNCITRAL)
  - *Methanex v. United States of America* (UNCITRAL)
  - *Mondev International Ltd. v. United States of America* (ICSID)

- *ADF Group Inc. v. United States of America* (ICSID)
  - *Grand River Enterprises et al. v. United States of America* (UNCITRAL)
  - *Glamis Gold, Ltd. v. United States of America* (UNCITRAL)
- **Selected Commercial Arbitration Matters**
    - **An ICC Rules arbitration**  
Represented two project companies of a leading global real estate investment management fund as claimants in a dispute under Hungarian law as regards representations and warranties in connection with a transaction for two Budapest office complexes.
    - **A dispute between a Balkan company and a Turkish company**  
Successful pre-arbitration resolution of cross claims under the English Sale of Goods Act and the ICC Rules regarding the delivery and inspection of cargo at a steel plant.
    - **A CEE highway infrastructure ad hoc arbitration**  
Served on claimant's hearing counsel team in a Euro 150 million plus dispute brought under the 2010 UNCITRAL Rules and involving a State entity.
    - **A VIAC Rules arbitration between two Luxembourg entities**  
Represented claimant in a dispute under the VIAC Rules arising out of a share purchase agreement and the permitting and construction of a heat and electricity plant in a CEE State.
    - **A multi-party VIAC Rules arbitration**  
Represented claimant in the initiation of a multi-party arbitration under the VIAC Rules relating to the interpretation of an escrow agreement regarding the disposition of funds in a purchase price escrow account.
    - **An ICC Rules arbitration between U.S. and Hungarian entities**  
Represented two U.S. claimants in a multi-million Euro dispute relating to the development of an office tower in Budapest, and the proper application of a compensation formula under a purchase agreement.
    - **An employment dispute under the ICC Rules**  
Arbitration advisor to a CEO and member of limited liability partnership contract in an employment dispute with an emerging markets investment fund under Delaware law.
    - **A major European telecommunications industry arbitration**  
Sited in Vienna under the VIAC Rules to resolve a Euro 2 billion dispute over control of a telecommunications joint venture.

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## Education Background

### Bar Admissions

1997                      New York  
                                  U.S. District Court for the Southern District of New York  
                                  U.S. District Court for the Eastern District of New York  
                                  U.S. Court of International Trade

### Education

1992-1996                **The University of Pittsburgh**  
                                  Juris Doctorate / Masters in Public & International Affairs – Joint Degree  
                                  Graduate Certificate – Center for Latin American Studies

1992                        **Johns Hopkins School for Advanced International Studies**  
                                  Summer Program

1986-1990                **The University of Michigan**  
                                  Bachelor of Arts, Political Science

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## Expertise

- International Commercial Arbitration (UNCITRAL, VIAC, ICC)
- Investment Treaty Arbitration (UNCITRAL, ICSID, ICSID Additional Facility, ICC, SCC)
- Treaty Negotiation Support
- Management of Investment Treaty Obligations

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## Practice Location/ Jurisdiction

United States of America, but works worldwide, particularly in Central and Eastern Europe and the Balkans.

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## Working Languages

- English

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## Other Relevant Experience

- **Memberships**
  - ICSID Panel of Arbitrators
  - Roster of Arbitrators, Centro de Arbitraje de México (CAM)
  - United Nations Conference on Trade and Development (UNCTAD) international investment agreements experts group
- **Advisory / Consultancy Work**
  - ***Treaty Arbitration Advice, Arbitrator Selection and Arbitrator Challenges***, Counsel and advisor in treaty-mandated settlement consultations, preliminary case analyses for both claimants and States, arbitrator selection and arbitrator challenges in several high-stakes treaty arbitration matters for CEE and Balkan States and their counsel teams (2008 – present).
  - ***Minimizing and Managing Investor-State Disputes: Media and Communications Strategy***, Adviser-Lecturer, Ministry of Justice of Georgia, Commercial Law Development Program, Tbilisi, Georgia (Dec. 2016).
  - ***Investor-State Arbitration Workshop***, Adviser-Lecturer, Ministry of Justice of Georgia, Commercial Law Development Program, Kvareli, Georgia (Nov. 2014).
  - ***Model BIT Drafting and Review***, Advisor to a CEE State (2014).
  - ***A State-to-State matter***, Advisor to State regarding issues of public international law and nominations to a panel for an expert determination regarding socialist era debt obligations (2011).
  - ***Investor Consultations and Amicable Settlements***, Advisor-Consultant, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (April 2010).
  - ***Model BIT Review***, Advisor-Lecturer, General Directorate for International Economic Affairs (DIRECON), Santiago, Chile (Sept. 2009).
  - ***Arbitral Award Enforcement***, Counsel to the Ministry of Justice of an Eastern European State regarding the enforcement of an arbitral award (2008).
  - ***Investment Protection under the Morocco-U.S. Free Trade Agreement***, Consultant-Lecturer, Commercial Law Development Program Workshop, Ministry of Economy and Finance, Rabat, Morocco (April 2008).

- ***Investor Protection and the Implementation of Investment Treaty Obligations***, Training Seminar II, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 2007).
- ***Investor Protection and the Implementation of Investment Treaty Obligations***, Training Seminar I, Lecturer, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Nov. 2006).
- ***Model BIT Review & Investment Agreement Negotiations***, Advised U.S. government officials on drafting investment and dispute resolution provisions of international investment agreements as attorney-adviser at U.S. Department of State (2001-2005).
- **Speaking Engagements / Training Programs**
  - ***Arbitration Youth Forum***, Lecturer, “Post-arbitral Proceedings: Planning and Practice Considerations,” Autumn Meeting, Court of Arbitration, Polish Chamber of Commerce (Oct. 20, 2016).
  - ***ICC Arbitration Training Programme***, Lecturer, Workshop on Case Strategy and Management, sponsored by the ICC Court of Arbitration and the Faculty of Law of the Jagiellonian University, Kraków, Poland (Jan. 22-23, 2016).
  - ***ICC Arbitration and ADR Training Programme***, Lecturer, Workshop on Hearings and Evidence, sponsored by the ICC Court of Arbitration and the Faculty of Law of the Jagiellonian University, Kraków, Poland (Jan. 30-31, 2015).
  - ***4th Investment Treaty Arbitration Conference, Settlement of Investment Disputes: Practical Steps***, Speaker, “Tools Available to States to Provide Interpretive Guidance to Tribunals,” Prague, Czech Republic (Oct. 30, 2014).
  - ***Approaches to Securing Investment Protection in Russia and CEE***, Invited Speaker, Russian-Polish Legal Day, Moscow, Russian Federation (Oct. 24, 2013).
  - ***Arbitration Under The UNCITRAL & ICSID Rules: A Comparison***, Lecturer, Workshop on Key Issues Relevant to the Negotiation of International Investment Agreements, Ministry of Economy, Labour and Entrepreneurship of Croatia, Zagreb, Croatia (Sept. 21-23, 2011).
  - ***Rethinking Investment Treaty Law: A Policy Perspective***, Lecturer, London School of Economics Transnational Law Project, London, U.K. (May 23, 2011).
  - ***Dispute Settlement in International Investment Agreements***, Lecturer, Workshop on International Investment Agreements, organized by the General Directorate for International Economic Affairs (DIRECON), Santiago, Chile (April 13, 2011).
  - ***Relative Standards of Treatment, Absolute Standards of Treatment, and Dispute Settlement***, Lecturer and Handbook Peer Reviewer, Seminar for Negotiators of International Investment Agreements, sponsored by the Asia Pacific Economic Cooperation (APEC), the Ministry of Foreign Affairs of Chile, the Ministry of Economy of Mexico and U.N. Conference on Trade & Development, Santiago, Chile (April 11-13, 2011).
  - ***Most Favored Nation Treatment in Investment Agreements***, Discussant, Organisation for Economic Co-operation and Development (OECD), International Investment Agreements and Investor-State Dispute Settlement at a Crossroads, Paris, France (Dec. 2010).
  - ***Fair and Equitable Treatment; Management of Investment Treaty Disputes; Alternative Dispute Resolution and Dispute Prevention Policies***, Lecturer, Asia Pacific Economic Cooperation (APEC), Regional Training Course on the Core Elements of International Investment Agreements, Kuala Lumpur, Malaysia (June 2009).
  - ***Investment Protection under Colombia's International Investment Agreements***, Lecturer, Training Workshop for Government Officials, Ministry of Trade, Industry and Tourism, Bogotá, Colombia (Feb. 2009).
  - ***Expert Meeting on Investment for Development: The Development Dimension of International Investment Agreements***, Invited Participant, U.N. Conference on Trade & Development, Geneva, Switzerland (Feb. 2009).

- ***Investment Treaties and National Security Issues***, Lecturer, Conference on Investment Treaty Arbitration, Court of Arbitration at the Polish Chamber of Commerce, sponsored by Sołtysiński, Kawecki & Szlęzak, Warsaw, Poland (Nov. 2008).
- ***Managing Investment Obligations: A Guide for Government Officials***, Lecturer, Seminar on Investment Agreements and Investor-State Disputes for Latin American Officials, sponsored by the Inter-American Development Bank, Organization of American States and U.N. Conference on Trade & Development, Bogotá, Colombia (Sept. 2008).
- ***Alternative Methods of Investor-State Dispute Resolution***, Lecturer, U.N. Conference on Trade & Development and Ministry of Justice of Ukraine, Conference for Countries from Eastern and Southern Europe and Central Asia, Kiev, Ukraine (June 2008).
- ***Grounds for Initiating Arbitration involving Governments, Government Agencies & State-owned Companies; Avoiding Disputes under International Law and Bilateral Investment Treaties***, Lecturer, Ministry of Justice Program on International Arbitration Involving States or State-owned Entities, Kiev, Ukraine (Nov. 2007).
- ***Fair and Equitable Treatment; National Treatment; Transparency in International Investment Agreements; Comparing the UNCITRAL & ICSID Arbitration Rules***, Lecturer & Resource Person, U.N. Conference on Trade & Development, Regional Training Session on International Investment Agreements and Investment Disputes for Countries of Eastern & Southern Europe and Central Asia, Minsk, Belarus (July 2007).
- ***Arbitration Theory and Practice***, Lecturer, Development Lawyers Course, International Development Law Organization, Rome, Italy (April 2007).
- ***Dispute Resolution under NAFTA Chapter Eleven***, Guest Lecturer, International Dispute Resolution, American University Washington College of Law, Washington, D.C. (April 2004).
- ***The International Minimum Standard of Treatment of Foreign Investment: Fair and Equitable Treatment***, Speaker, U.N. Conference on Trade & Development, Intensive Training Course for Negotiators of Investment Agreements, Lima, Peru (Oct. 2003).
- ***NAFTA Investment Disputes Docket Briefing***, Speaker & U.S. State Department Representative, National Advisory Committee to the U.S. Representative to the Commission for Environmental Cooperation, Washington, D.C. (May 2003).
- ***Investor-State Arbitration under Bilateral Investment Treaties***, Speaker, A Forum on Arbitration of International Commercial Disputes, American Arbitration Association, Pittsburgh, Pennsylvania (Dec. 2002).
- ***Investor-State Arbitration under NAFTA Chapter Eleven: The Role of Government Counsel***, Speaker, Inter-American Bar Association Annual Conference, Cochabamba, Bolivia (June 2002).
- ***Rules of Origin Determinations & The Future of the Free Trade Area of the Americas***, Speaker, Inter-American Bar Association Annual Conference, Quito, Ecuador (Fall 1995).
- **Publications**
  - ***Managing Investment Treaty Obligations and Investor-State Disputes: A Guide for Government Officials*** (co-author), in *LATIN AMERICAN INVESTMENT TREATY ARBITRATION: THE CONTROVERSIES AND CONFLICTS* (Thomas E. Carbonneau ed., Kluwer Law International 2008).
  - ***Western Nations Could Be Hit by Legal Action on SWFs***, *FINANCIAL TIMES*, June 26, 2008 (Comment & analysis, Letters).
  - ***Enforcement of Foreign Arbitral Awards***, *INTERNATIONAL LAWYER: THE YEAR IN REVIEW* (Summer 2005).
  - ***International Trade in the Americas: The Inter-American Lawyer's Guide to Origin Determinations***, 5 *TULANE J. OF INT'L & COMP. L.* (1997).
  - ***Learning from Computers: The Future of the Free Trade Area of the Americas***, 27 *UNIV. OF MIAMI INTER-AMER. L. REV.* (1996).