

## Stronger together



European nations must do all they can to work together and ensure that a strong, peaceful and united Europe can defuse tensions around the world, particularly those between the US and China, while defending threatened liberal democracies.

That was the message from Romano Prodi, former Prime Minister of Italy and President of the European Commission, and keynote speaker at yesterday's opening ceremony.

"When Europe is united it has a voice in the world but when Europe is not united it doesn't have a voice," said Prodi, who warned that a divided and weakened post-Brexit Europe would have a detrimental impact on the continent's calming influence on the world arena.

Drawing attention first to the increasing occurrence of populism and the growing desire to defuse traditional authorities, a phenomenon witnessed from the Philippines and China to the US and within Europe itself, Prodi suggested that people appear more uneasy of traditional decision-making processes and democracy itself.

The leaders of today's political parties are dedicating themselves to the next generation without taking care of

the here and now, he said, and the populist revolution happening around Europe is a direct consequence of globalisation.

Another key theme was migration, with Prodi calling for the EU to defend the rights and history of justice of those countries devastated by brutal wars.

"Migration is the tort for world malaise," he said. "Clearly, in the US, in Asia, everywhere, the symbol of all fears is migration; in many case like Europe and Italy, migrants are indispensable to daily life."

"Malaise is inversely correlated to the number of migrants, but the problem of migration is important, it's a problem of identity."

### Two pillars

Prodi continued to discuss the current makeup of the European Union, whose priorities have shifted from the creation of a union of minorities to a system heavily led by its two strongest constituents: Germany and France. For a long time, he said, Germany was an obvious leader, which, in line with German spirit, led European policy makers to look at the political economy first. But now, with the election of Emmanuel Macron and the

Romano Prodi served as President of the European Commission from 1999–2004 and was twice Prime Minister of Italy (1996–1998 and 2006–2008).

He entered politics in 1978, when he was appointed Italy's Minister of Industry. From 1982 to 1989, he served as chairman and chief executive officer of the Institute for Industrial Reconstruction, Italy's largest public holding company at the time.

In May 1996, he was appointed Prime Minister and remained in office until October 1998. The measures introduced by his Cabinet enabled Italy to meet the Maastricht criteria for joining the eurozone.

growing influence of France, there is increased emphasis on a strong foreign policy.

"The reaction was clear, the German government has increased the focus on economic aspects, and the French on foreign policy," he said. "Europe was designed as one engine with two pistons, but now it's two engines with one piston each."

*Continued on page 2*



### THINGS TO DO

All roads lead to amazing food and drink in Rome

PAGE 9



### SPEAKING OUT AND SPEAKING UP

Encouraging the debate on sexual harassment in the legal workplace

PAGE 10



### THE DIGITAL TAX CONUNDRUM

A long-term plan is needed to find a proper solution to this ongoing problem

PAGE 15



## SPONSORED BY

**ENYO LAW**

DISPUTES. NO CONFLICTS.

## HADEF & PARTNERS



Continued from page 1

## When Europe is united it has a voice in the world but when Europe is not united, it doesn't

This is on top of the impending loss of the UK following Brexit, a particularly important wheel in the EU that will have a vast impact. The only solution is to save free trade and to compromise on other issues, he said. The EU finds itself in a difficult situation, and as calls for a second referendum are amplified, a vote Prodi implied would only wield the same result as the first, it is increasingly important that negotiations favour both sides.

“A great part of the world looked at Europe through British glasses. We have to reshape the Union after Brexit, I don't think there is an alternative to this,” he said. “The renegotiations will be tough, but in the end there must be a compromise in which everyone is a winner.”

Prodi reemphasised the importance of Europe remaining united to defend against the increasing challenge of the rise of China and the apparent reduction of significance of the continent in the US, demonstrated first by Obama and continued under Trump.



“Europe can do it, but must do it together, even France and Germany are very small cogs in the dimensions of the new global war,” he concluded.

### Look after the rule of law and it will look after you

Prodi's keynote was preceded by a speech from IBA president Martin Šolc, who took his time on stage

as an opportunity to discuss how certain core values underpinning democratic civil society are being corrosively eroded and the importance of the rule of law in their defence.

“This becomes true for more and more countries including some in which we have taken liberal democracy under the rule of law for granted, like my own,” he said. “We should never stop reminding ourselves of that, particularly here in Rome, in the city that experienced the fall of the once greatest empire of earth and, centuries afterwards, that of the birth of fascism, being the beginning of the dark-est era in the modern history of Europe.”

Lawyers must not turn the wheels of history but, being the servants of the blindfolded lady holding the sword and the balance, must do all they can to preserve the rule of law, he continued. As guardians of the rule of law, lawyers understand when it is suppressed and forgotten, society falls under the uncontrollable rule of individuals with vested interests and, ultimately, dictators.

Šolc then announced an education campaign highlighting the significance of the rule of law in everyday life, eight videos each dealing with a different element of the concept, that he encouraged members to share, promote and use as conversation starters. Each video carries a shared message: ‘*Look after the Rule of Law and it will look after you.*’

In his closing statement, Šolc's read out a blessing from Pope Francis, who upon hearing of this week's event called upon the conference to explore ways that the law can be used to promote the wants of the needy first and foremost.

# Taking charge

Migration patterns have changed dramatically across the globe because of climate change, failed states and continuing civil wars. The refugee crisis is becoming the new normal, posing increasing challenges at all levels for policymakers. Panellists at yesterday morning's ‘*Global migration: from crisis mode to the new normal*’ session made a call to action on how lawyers can help with the increase in global migration.

As a transition country for refugees targeting countries such as Germany and the UK, Italy has seen huge numbers of arrivals. From 2015 to date, more than 47,000 refugees have died *en route* to an EU country. And even though arrivals have dropped by 80% compared to 2017, the situation continues. To clamp down on asylum seekers, Italy adopted last month an anti-migrant decree that aims to expel migrants and take away their Italian citizenship. Giovanni Carotenuto, from Carotenuto Studio Legale, explained that in addition to external arrivals from countries such as Syria, a big challenge for Italy is dealing with internal arrivals of EU citizens from countries such as Romania.

However, he believes that the new decree is against the rule of law.

### Playing your part

While governments have failed to come up with solutions to the refugee crisis, lawyers can do their part to help. Through pro bono work, they can assist refugees in areas such as access to social services by working with non-profit organisations, providing legal assistance to individuals at detention facilities, upscaling legal knowledge and empowering the legal rights of individuals in post-arrival integration. By sharing expertise and supervising the work of NGOs that are able to earn the trust of migrant communities, law firms can also address the corporate needs of those NGOs which may lack resources and legal know-how.

Working creatively is key for law firms that want to help. By working closely with NGOs with connections to refugees as well as media that have highlighted stories of individual refugees, Kingsley Napley's Nicholas Rollason shared his law firm's experience. It has collaborated with NGO



Safe Passage to help bring refugee children to the UK. The journey has been anything but easy. It was especially challenging as the UK government has tried to stop lawyers acting for refugee children as it would rather have the children claim asylum in France.

“The UK government has been undermining the rule of law in such an overt way, but we persisted,” said Rollason.

As there are no real procedures and a lack of transparency on how the system works, the process has been difficult. But the firm brought a successful challenge against the UK government for not giving proper grounds in rejected family reunion cases.

Another issue for the UK is that it does not allow commercial law firms to do publicly-funded work. This adds pressure to cash-strapped small legal aid firms and larger firms can only help through pro bono work.

“We're only scratching the surface of the problem,” said Rollason. “Legally funded firms are severely stretched and they're the ones doing the hard work. It's challenging for these firms to come to the IBA but it's important for them to share with the IBA community the real stories of what's happening on the ground.”

### KEY TAKEAWAYS

- The refugee crisis is becoming the new normal, posing increasing challenges at all levels for policymakers. Governments have so far not come up with a solution;
- But lawyers can do their bit to help through pro bono work, providing legal assistance to individuals at detention facilities, and informing refugees of their rights at all stages.



# Equality and dignity for all

“We are living in exciting times,” David Ryken, principal and senior counsel of New Zealand firm Ryken and Associates, and co-chair of the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Law Committee, told delegates yesterday at the ‘LGBTI strategic litigation: litigation as a tool to lead change to the rights of LGBTI persons’ session. “When we were setting up the discussion for this topic, we didn’t know what kind of developments were lying ahead.”

The developments in question come on different fronts, and from several parts of the world. One of the most recent is a decision from the High Court of Justice of Trinidad and Tobago, which ruled in April that sections of the 1986 Sexual Offences Act, criminalising consensual same-sex activity between adults, were unconstitutional.



Shannon Minter

“The discussion here is a step down from the one on marriage equality which is going in several parts of the world, as it’s one centered on decriminalisation,” said Landmark Chambers’ Richard Drabble QC, whose client Jason Jones, an LGBT activist, brought the case against the government of Trinidad and Tobago. “But it’s a step forward and we are seeing similar challenges in other countries, including Kenya for example.”

One issue at the heart of the case in Trinidad and Tobago was the savings clause in the country’s Constitution, a legacy of the British empire. This type of provision protects laws on the basis that they are perfect at the time they were implemented – a serious issue when the law in question is nearly 40 years old and doesn’t necessarily reflect a society’s progress and new values.

“Judge Devindra Rampersad’s message in the ruling was terrific: ‘morality is for the temple, equality is for the courts,’” said Drabble.

## US battles

The fight for equality is ongoing in other parts of the world too, including in the US. It’s taken several decades for the Supreme Court to declare marriage equality for same-sex couples, after years of state and federal level litigation and activism chipped away at long-standing marriage bans. The Supreme Court’s 2015 decision in *Obergefell v Hodges* said that states must extend all the benefits and privileges of marriage to same-sex couples.

“The Supreme Court is never too far ahead of public opinion,” said Shannon Minter, legal director of the National Center for Lesbian Rights in San Francisco. “It was a progressive strategy for us: it was first about building public support, then obtaining as many court victories before going to the Supreme Court, and finally about winning legislative state victories.”

Minter asked the question of why so much attention is focussed on the marriage issue. “For us, fighting that battle struck at the heart of negative stereotypes about LGBT people,” he said. “It was about stating that there should be equality and dignity for all.”

## KEY TAKEAWAYS

- Developments in the field are coming on different fronts, and from several parts of the world. One of the most recent is a decision from Trinidad and Tobago, which ruled criminalising consensual same-sex activity between adults was unconstitutional;
- In the US, decades of state and federal level litigation and activism chipped away at long-standing marriage bans, with the Supreme Court declaring marriage equality for same-sex couples in 2015.

**Flichy Grangé Avocats**  
droit social / employment law

**L&E GLOBAL**  
an alliance of employers' counsel worldwide

Let's make it simple!\*

\*You thought that employment law in France was a jungle, let's make it simple!

# Watch this space

Lawyers can choose to swim against the political tide and support global harmonisation. The UNIDROIT Principles are one of the most compelling initiatives in law

“I believe in harmonisation,” says Willem Calkoen of Dutch firm NautaDutilh, and coordinator of the IBA working group on the UNIDROIT Principles. “It should be an aim of all international lawyers to try to harmonise. If my Dutch client goes to India where the law is very different, they get nervous; differences in law are a complicated hindrance in international business.”

This morning, the IBA will present the results of a vast exercise to strengthen and promote one of these harmonisation efforts: the UNIDROIT Principles of International Commercial Contracts, also known as the Principles or PICC.

The Principles first emerged as a concept in the 1970s with quite a romantic vision of creating a global *lex mercatoria*. An analogy in language might be something like a *lingua franca*, or extending that idea globally, a legal version of Esperanto. They were first published in 1994, with subsequent editions in 2000, 2010 and 2016, and offer a set of ideal definitions for contract provisions such as good faith, fairness, hardship, specific performance and termination for long-term contracts.

The best way to understand the Principles is through case examples, which is exactly what the IBA has been busy providing when a team of 42 lawyers analysed 250 cases worldwide which cited UNIDROIT Principles. This research will be presented today.

If a party from Paraguay contracts with a party from Vietnam, they must agree on one of the con-

tract laws, which can be tricky, or they can choose a neutral law (English or New York law), which neither party knows as their own. In this circumstance the Principles offer an alternative.

Another applicability is well illustrated by a 2009 decision from the Supreme Court of Belgium over a cross-border contract for a supply of steel rolls. Market fluctuations drove the price of steel up, leaving one party at a big disadvantage. This party wanted to exit the contract by claiming hardship.

Belgian law did not have a definition of hardship so the court fell back on the Vienna Convention (GISC), which doesn't have a definition of hardship either. The Court finally turned to and applied the definition in the Principles.

The Principles can fill gaps, help interpret contracts and smooth differences between domestic laws. “Lawyers at the IBA work every day on differences between laws,” says Calkoen. “You could say it's nice for them because it makes it more complicated and means they have to give more advice. But busy lawyers don't like complication because they like to solve things quickly and practically.”

## How do they work?

One of the weaker areas in the Principles is that because they are forward-thinking (they have been developed as an ideal and not only through case law) they don't have an easily-accessible complete case history yet.

In answer to this, an IBA working group of 42 practitioners from 25 countries worked together to sum-

marise 250 court and arbitration cases where the Principles were applied as the rules of law governing the contract, or used to interpret and supplement the applicable domestic law. The working group has also produced 28 country reports.

This undertaking is notable in itself. “People said it would be unmanageable, but low and behold we have produced a neat document because of the enthusiasm of IBA members. It's the only place where you would ever be able to do

this,” says Calkoen.

By illustrating how the Principles are applied the group hopes that they can be taken up more readily, especially by countries such as the US and UK.

At the moment, the Principles are used most in countries which are developing their legal systems. Paraguay,

for example, has about 30 cases which have used the Principles. The English Supreme Court has relied on UNIDROIT once. Countries like Russia and Australia have a rich UNIDROIT case history, while France leaned heavily on the Principles when it reformed its commercial code in 2015.

One advantage the Principles have is that they are soft law, and as such have been enjoying steady and increasing use, with a creeping influence globally. As with the 1992 Cadbury Code on corporate governance, the soft law approach, suggesting an ideal practice, can gradually succeed by influence.

The Principles differ from other harmonising attempts. The EU for example issues directives, compelling member states to adopt specific acts and rules. In the US, where each state has its own laws, there is

**One advantage the Principles have is that they are soft law, and as such have been enjoying steady and increasing use**

the Restatement of the Law, which attempts to bridge differences between state laws in cross-state cases by taking inspiration from all state laws. This is an approach that looks back to case law.

Calkoen believes that the soft law approach is the best way to contribute to the harmonisation of laws.

## The future

According to Gerard Meijer, president of the board of the Netherlands Arbitration Institute, the Principles already “serve as a valuable source of comparison and reference”. They assist “in reaching the best solution in international disputes” and serve as a benchmark “when discussing legal issues with foreign lawyers under a certain law”.

This neatly pre-packaged contract law, available to anyone who wishes to take it up, and developed internationally outside of any domestic law system, may well have a big impact 20 years from now. It will edge its way into domestic legal systems and influence interpretations of international conventions and transnational law.

This session will help it on its way by analysing real international transactions and the way they were litigated in court or in arbitration through the lens of the Principles.

*The panel will be co-chaired by Simon Hotte of FIDAL, France and Ina Popova, of Debevoise & Plimpton, US. Other speakers include Karina Goldberg of Ferro Castro Neves Daltró & Comide Advogados, Brazil; Sanjeev Kapoor of Khaitan & Co, India and; Gerard Meijer of NautaDutilh, the Netherlands.*



Willem Calkoen

**SESSION:** A case study: the practical use of UNIDROIT Principles for international commerce

**TIME:** Today (0930 – 1045)

**VENUE:** Session Room 1, Level -1

**COMMITTEES:** International Sales Committee, Corporate and M&A Law Committee, Arbitration Committee and European Regional Forum



# A conversation with Fatou Bensouda

Bensouda, chief prosecutor at the International Criminal Court, is at the forefront of international criminal justice

A Gambian lawyer focused on international criminal law, Fatou Bensouda was elected the International Criminal Court's (ICC) chief prosecutor in June 2012, nine years after it was established with the aim of ending impunity for those "unimaginable atrocities that deeply shock the conscience of humanity". Her term is due to end in 2021.

She replaced Argentina's Luis Moreno Ocampo to become the Court's second chief prosecutor, and it was a tough start by any measure. The very same month of her arrival, four members of the Court's defence team who were visiting Muammar Gaddafi's son, Saif al-Islam, were arrested in Libya. Along with only one conviction, an exclusively African caseload and relations with other African states at breaking point, the

**SESSION:** A conversation with... Fatou Bensouda of the International Criminal Court

**TIME:** Today (1315 – 1415)

**VENUE:** Auditorium, Foyer level

Court's reputation after the arrests left much to be desired.

Before the ICC, from 1987 to 2000, Bensouda served as a senior state counsel, director of public prosecutions, solicitor general, attorney general and justice minister in Gambia. In her final role, she was chief legal adviser to Gambia's president and cabinet. From 2004, she was deputy prosecutor in charge of the ICC's Prosecutions Division.

Bensouda has also been a delegate to United Nations conferences on crime prevention, the Organisation of African Unity's Ministerial Meetings on Human



Rights and the meetings of the Preparatory Commission for the ICC. Notably, she was a trial lawyer at the International Criminal Tribunal for Rwanda.

## Unforgiving mandate

The ICC has an especially tricky task which at times makes it look severely hamstrung. For example, Russia and China vetoed a call for the Syrian conflict to be referred to the Court. The Court has only made three convictions for war crimes so far (Congoese rebels Thomas Lubanga and Germain Katanga, and Congo's former vice president Jean-Pierre Bemba).

Under Bensouda's tenure, the Court has opened investigations into four new 'situations' concerning alleged crimes in Mali, the Central African Republic, Burundi and Georgia. The ICC is currently conducting nine live preliminary examinations, including for alleged crimes in Afghanistan, Nigeria, Iraq/UK and Colombia.

Putting the questions to Bensouda will be the moderator of the session, IBA executive director Mark Ellis, who previously served as legal adviser to the Independent International Commission on Kosovo.

# IFLR SOUTH KOREA SPECIAL FOCUS 2018



Available from booths 37-38 in the conference centre - or contact Anicette Indiana for your free copy [anicette.indiana@euromoneyasia.com](mailto:anicette.indiana@euromoneyasia.com)



## PREVIEW

## Shaking up the status quo



Cryptocurrencies have quickly become one of the most discussed developments in finance.

According to Yuval Horn, founder of Horn & Co and co-chair of today's Legal Practice Division showcase session, institutional investors are key to developing the ecosystem and helping the market to grow. But they are reacting slowly.

Many financial institutions are sceptical about cryptocurrencies, but less so about the underlying technology – blockchain – which is being used for many different purposes, so much so that banks are said to be investing more in blockchain than technology companies.

There has been much evidence to bolster crypto-sceptics' negativity. A

spate of Securities and Exchange Commission (SEC) rejections for US cryptocurrency exchange-traded funds saw the value of cryptocurrencies fall recently, reinforced by a number of hacks on exchanges in Asia this year.

Concerns about overarching regulation are also believed to create roadblocks in the market, particularly in the US, where the regulator claims that nearly every initial coin offering (ICO) is a security. This has prompted some issuers to exclude US investors from participating to avoid stringent securities laws.

While jurisdictions like Gibraltar and Switzerland have a more flexible regulatory framework, the US shows no sign of change. This has led many observers to predict that security token offerings will become the new normal, says session co-chair Alexei Bonamin, partner at TozziniFreire Advogados.

While this may favour institutional investors, the people that built the market into what it is today will likely be excluded from these issuances. Yet, all issuers want is clarity, and doubts over the regulatory status of ICOs is harming

the development of blockchain, which many in the sector believe holds at least some benefit.

For companies that want to play by the rules but don't want to comply with securities laws, there are alternative steps to take but a lack of guidance is not helping. Horn says exemptions should exist for companies that don't issue a security token and for those that issue more of a currency.

Given the uncertainty and potential pitfalls that come with investing in this nascent sector, investors are desperate for reassurance and are looking for the same type of regulation they are accustomed to.

"Our client which has submitted a prospectus with the SEC intends to be a regulated exchange and the offering of their tokens will be covered by a prospectus," Horn says. "Once they have raised money, it will be appealing to an institutional investor because there will be no difference in the disclosure requirements from a company that sells shares."

This point is crucial if virtual currencies are to establish themselves as

a mainstream asset class. Without the same kind of regulatory oversight they will always be a niche, alternative investment that never receives the level of regard as a conventional investment.

Fears that regulation would legitimise an investment that supporters believe is a true threat to the entire financial system prevented some regulators from stepping in initially. Yet the tide is turning, certainly in Europe, and regulators are now stepping in. The next six months will define whether cryptocurrencies can become what its supporters believe it is capable of. Much of that success will depend on regulation.

**SESSION:** LPD Showcase: initial coin offerings - technology meets finance

**TIME:** Today (0930 – 1230)

**VENUE:** Session Room E, Level -1

**COMMITTEES:** Banking Law Committee, Capital Markets Forum, Closely Held and Growing Business Enterprises Committee, Investment Funds Committee, Securities Law Committee, Legal Practice Division (Lead), Financial Services Section (Lead) and Technology Law Committee (Lead)



ENSafrica.com



ENSafrica | Africa's largest law firm

# A delicate balancing act

The problem of money laundering is one that continues to confound regulators: just when it appears that one issue has been solved, another challenge appears. The recent case of Danske Bank shows that despite regulatory efforts, enforcement still remains an ongoing battle. The EU Commission called the €200 billion money laundering case the biggest scandal in Europe, leading to the resignation of the bank's chief executive. An independent report later found that 15,000 customers were implicated in suspicious transactions.

Today's session co-chair, Federation of Law Societies of Canada chief executive Jonathan Herman, says that the legal profession must be part of the solution to combat the problem.

"The goal of our panel is to bring our audience up to date on the relationship between the legal profession and the state actors that seek to compel it to be part of a broader anti-money laundering strategy," he says.

After the release of the Paradise and Panama Papers, increased scrutiny was levelled on money laundering and in particular, the role of beneficial ownership and legal tax setups through loopholes in laws and regulation. Central to the panel's dis-



ussion will be how this information should be brought to light, and who should be responsible for ensuring its accuracy and reliability.

Coming up with solutions to combat these issues is no easy task.

"Whether it involves the development of rules and guidance for the legal profession, enforcement strategies for regulators, or working collaboratively with state actors in a way that preserves our core values –

**SESSION:** Lawyers in the crosshairs: anti-money laundering strategies and the balance between security and professional core values

**TIME:** Today (1430 – 1545)

**VENUE:** Session Room T, Level -1

**COMMITTEES:** Bar Issues Commission Regulation Committee (Lead), Regulation of Lawyers Compliance Committee

all of these steps are in place or in the works in a variety of jurisdictions around the world," Herman says.

Yet the big challenge is in persuading state actors and agencies that it is essential for democracy that these professional values are safeguarded while simultaneously playing an effective role in the fight against money laundering and terrorism financing.

The key is finding a balance between security and legal integrity, and taking measures to ensure honest lawyers are not being used unwittingly in illegal activity.

# The hardest game to win

In the past few years, sport has increasingly moved from the back to the front pages, with news headlines dominated by scandal after scandal. These have even fused sport with politics, in the case of Russia's Olympic doping ban, bringing scrutiny from politicians across the globe.

Sports betting is a global \$250 billion industry and growing threats to such a valuable sector are making the job of authorities all the more difficult. In particular, ever since betting companies offered markets in events beyond the final result – such as yellow cards or throw-ins – it has become easier for players to fix matches and harder for the authorities to detect any wrongdoing.

In today's session, distinguished panellists working in sporting authorities such as the Court of Arbitration for Sport and the International Athletics Unit will discuss the issues of corruption and match-fixing in athletics, football, tennis and horse racing.

According to session co-chair Natalie St. Cyr Clarke, legal affairs manager at the International Basketball Federation and co-chair of the IBA's Sports Law Subcommittee, one emerging theme is the use of criminal law by sports bodies and national agencies to regulate these issues.

"A lot of it depends on resources but what would be an improvement is more collaboration between authorities, such as Interpol, and the international federations," she says.

In 2009, about 200 games across nine countries were implicated in a match-fixing investigation, leading to arrests in Germany and in Switzerland. Europol is leading an investigation into tennis match-fixing and

arrested 13 people in Brussels in June 2018 – a sign that improvements are being made.

Recent allegations of corruption in tennis have also occurred: an investigation by the BBC and BuzzFeed found that 16 male players ranked within the top 50, including grand slam champions, had been repeatedly alerted to the Tennis Integrity Unit (TIU) on suspicion of throwing matches. The joint report was also critical of the TIU's role in investigating the reports.

The European Sports Security Association flagged more than 50 suspicious matches to the TIU in 2015 and said tennis attracts more suspicious activity than any other sport. Former world number one Novak

Djokovic revealed in 2016 that he received a £100,000 offer to lose a match, illustrating that this could affect the very top of the sport.

Session co-chair Jessica Parker, partner at Corker Binning, believes the arrest of Spanish Football Federation President Angel Maria Villar shows authorities have a tough task on their hands. As betting becomes more sophisticated, authorities must adapt as well. Increasing criminal oversight is one solution, as is increasing the scope to pursue a charge for match-fixing, as federations are generally beginning to do. But the battle is a tough one to win.

**SESSION:** Corruption, doping and match-fixing in sport

**TIME:** Today (1615 – 1730)

**VENUE:** Session Room U, Level -1

**COMMITTEES:** Business Crime Committee (Lead), Criminal Law Committee and Sports Law Subcommittee



Natalie St. Cyr Clarke



# HADEF & PARTNERS

Abu Dhabi | Dubai

## Meet our IBA team

We are a firm of talented and diverse lawyers with in-depth knowledge and strength in the UAE.



Sadiq Jafar  
Managing Partner



Richard Briggs  
Executive Partner



Sameer Huda  
Partner



Michael Lunjevich  
Partner



Walid Azzam  
Partner



# On the menu

All roads lead to amazing food and drink

For people who don't live in Italy, the prospect of the Eternal City's gastronomic delights has been making mouths water as soon as flights were booked. Italian food isn't far from the top of many people's lists and its capital doesn't disappoint. For some, the best ways to discover all that is on offer here is to meander the streets and decide what of *cacio e pepe* (pecorino cheese and pepper pasta), *carciofi* (artichokes) *a la Romana*, pizza romana or *suppli* (rice croquettes) takes your fancy. Why not stop at **Nonna Betta**, **Cesare al Casaleto** or **Armando al Pantheon**, and wash down all the delights you have sampled with one or two glasses of Montepulciano or Sangiovese.

If previous iterations of the IBA Annual Conference are anything to go by, the food on offer at the event itself is likely to be excellent, as will that of the numerous evening parties everyone will no doubt attend this week.

But here are a few insider tips to otherwise fill the gaps.

Recently over fresh fish in one of New York's best working lunch spots, this article came up in conversation. A senior legal counsel at a global private equity firm gave a number of suggestions which rather than dilute are best coming from him. His first choice is **Il Moro**, a fantastic restaurant near the Trevi Fountain that, while requiring a reservation, offers the authentic trattoria experience. For lunch, head to **Roscioli** in the historic center and ask for a table upstairs: the carbonara with house pork cheek is a must have, as is the *ci-coria* sauteed in olive oil and garlic.

No trip to Rome would be complete without several helpings of gelato, and in this area you really are spoilt for choice. One of the most famous, and widely accredited as the best in class, is **Neve di Latte**, behind the Maxxi in the Flaminio district, which won't leave you disappointed.



**Il Gelato di San Crispino** of Eat, Pray, Love fame, is another solid choice, with a wide variety of interesting flavours made under the same precise conditions it has been for several generations.

For the health conscious among you, if all the gelato gets to be too much, check out **Biolosophy** -

Rome's first luxury organic eatery, just a few minutes from the Piazza Navona, or **Ginger Saporì e Salute**, which offers a real taste of Italian goodness throughout the day. For those of you not watching their figure, we have it on good authority that the best pizza in Rome is at **La Gatta Mangiona...**

BOOTH 37-38

AVAILABLE 1 NOVEMBER

## IFLR1000

#IFLR1000

### How did your firm do?

Check IFLR1000's 2019 rankings

UNIQUE INSIGHT ON YOUR FIRM'S PERFORMANCE



Firm rankings by practice area in +120 jurisdictions



Individual lawyer ratings, detailing practice and sector expertise



Exclusive feedback from +53,000 client referees surveyed in this research cycle

[VISIT IFLR1000.COM](https://www.iflr.com)

Search for firms, lawyers and jurisdictions

# Speaking out and speaking up

“There is no question that the legal profession must do better: the evidence we have certainly suggests there is no room for complacency,” says Neelim Sultan, barrister at 1 MCB Chambers, co-chair of the IBA’s Human Rights Law Committee and of this session.

Law societies and bar associations worldwide have highlighted the scale of the problem, including a recent increase in reports of harassment, bullying and discrimination across the legal profession. In New Zealand for instance, 18% of lawyers told the NZ Law Society they had been sexually harassed. Forty percent of respondents to a UK Bar Council report said they had experienced or observed bullying or harassment of other barrister colleagues, yet only 20% of those who had experienced sexual harassment said they felt able to report it.

“And this in a profession in which being able to effectively advocate on behalf of victims of injustice is an essential if not overriding criteria,” says Sultan.

Global campaigns like the global #metoo and #timesup movements have cast a spotlight on harassment and abuse of power within the legal profession. But progress shouldn’t stop there.

Today’s session will highlight the legal profession’s duty to rise to the challenges thrown up by these movements, and will include a contribution from session panellist Zelda Perkins, Harvey Weinstein’s former assistant, about the use of non-disclo-



Neelim Sultan

sure agreements to disguise unethical or abusive conduct.

Lawyers need to be aware of the task ahead on several fronts. They need to be mindful of the ethical, legal and human rights compliance obligations raised by any sexual harassment claim they advise on – whether on behalf the accuser or the accused. Young lawyers have a crucial role to play in shaping this debate says Sultan, and in changing a legal culture that some have argued has been all too focused on protecting the accused at the expense of the abused.

But the legal profession also has to get its own house in order and stamp out toxic workplace practices: this could be by putting in place confidential helplines, training, counselling and other support that will enable real and lasting change to become embedded. The American Bar Association for instance has

**SESSION:** Preventing sexual harassment in the workplace: law firm legal and ethical compliance with international human and women’s rights

**TIME:** Today (1430 – 1545)

**VENUE:** Session Room U, Level -1

**COMMITTEES:** Business Human Rights Committee, Human Rights Law Committee (Lead), Crimes Against Women Subcommittee

released a zero tolerance manual to provide guidance to US lawyers in combatting sexual harassment in the workplace and the UK Bar has produced a working programme of practical initiatives.

“Sexual harassment is about abuse of power – I hope our session can encourage an honest debate as to how such abuse occurs and continues,” says Sultan. “As lawyers, we are particularly well placed to play a critical role in progressing this debate and finding solutions.”

*The IBA’s Legal Policy and Research Unit has launched a survey focused on the nature and prevalence of bullying and sexual harassment in the profession. It has been sent out to the 80,000+ members of the IBA. The survey closes on October 26 and results will be available early 2019. Click [www.ibanet.org/harassment-survey.aspx](http://www.ibanet.org/harassment-survey.aspx) to access it.*

## A balancing act

To say the world was shocked when the Cambridge Analytica scandal broke is an understatement

In this digital age there is often a heightened sense of paranoia regarding the information gathered on users through the websites they browse, the apps they download or the words they type into a search engine. But how adequate is the law in protecting personal data and privacy, while at the same time ensuring free expression is preserved? Where exactly is the line being drawn?

In today’s session, Brittany Kaiser, a former Cambridge Analytica employee who is now with the Digital Trade Asset Association, will be sharing the evidence she has provided to the public on how the company collected Facebook data for political profiling purposes. The personal data of nearly 90 million Americans and Britons was harvested from Facebook to produce targeted advertising and news during the US presidential election and the Brexit campaign.

According to session co-chair Mark Stephens, partner at UK firm Howard Kennedy and Legal Practice Division representative, IBA’s Human Rights Institute, information was gathered via the applications to build up data points on individuals, and targeted information on US election candidates or on the Brexit campaign was delivered to them.

The session will look at how different countries are coming up with stronger data privacy protection regulations to protect their citizens. For example, Europe’s landmark General Data Protection Regulation (GDPR), which came into force in May 2018, is being touted as such a defence because of the scope of its oversight and of the sanctions it introduces.

But complying with GDPR is a challenge when it comes to handling requests for data from governments and courts. The regulation limits companies’ ability to gather and share data which will impact how data ag-



gregators that are gathering intelligence on Facebook and Twitter user profiles will operate.

“What is the reasonable expectation of privacy in the digital age?” asks session co-chair Robert Balin, partner at Davis Wright Tremaine and chair of the Media Law Committee. “Is it smaller? The GDPR appears to say it should not be any different.”

While Europe has taken a strong stance on data privacy, it’s a different story in the US, which so far hasn’t adopted data protection standards that are as stringent. But there is a lot of pressure on US companies to move towards the EU model.

“Will the GDPR find a home in the US? Right now, the answer is wait and see. But the question is where will we be 10 years from now? I think it is in-

evitable that the US will move towards the EU model,” says Balin.

There are also implications for media outlets’ ability and responsibility to report the news accurately, an issue that news providers have been grappling with in recent years. “How will one be able to determine the truth put forward by robots that are able to produce messages more quickly than humans are able to interpret them?” asks Stephens.

**SESSION:** Has privacy law run amok? Balancing privacy and free expression in the digital age

**TIME:** Today (0930 – 1045)

**VENUE:** Session Room F, Level -1

**COMMITTEE:** Media Law Committee (lead)



# Remaking Rome

The Treaty of Rome cannot be blamed for Brexit despite its flaws: this was the subject of debate in yesterday afternoon's session '*Remaking Rome: The Treaty of Rome*'.

"I'm not entirely sure the Treaty went wrong at all," says Michael Clancy OBE, director of law reform at The Law Society of Scotland.

Despite the loud discontent voiced against European rules and practices, during the referendum debate, the decision to leave cannot be blamed solely on the complexities of a treaty which established the European Community in 1957.

But that is not to say the Treaty is without fault. "Cohesion was devoted not to social cohesion but regional cohesion and this simply did not work," said Fiorella Kostoris, director at Banca Monte dei Paschi di Siena.

Economically speaking, there is also no rationale in saying that there should be a balanced budget for the medium term, because when inevitably a shock comes, a negative budget may be helpful in stimulating a depressed economy.

Many British people who voted for



the UK to leave the EU were motivated by their disappointment in what they saw as the European Union becoming less about free trade and more about a political union. Fears of federalism and the supremacy of European law characterised the debate, along with immigration, but the many who voted yes in 1975 and no in 2018 could also be accused of changing their priorities.

"Brexit is very paradoxical in a sense," Kostoris said. "The UK was in favour of competition originally when entering the European Community, but one of the major reasons for leaving is the fear of migration and this increasing the competition for domestic workers."

And this cannot be blamed on the Treaty of Rome necessarily, particularly when one takes into account the difficulties of combining the goals of all 28 member states into one cohesive framework.

"One should be able to combine freedom of movement and security together, a goal of the EU's for a while," professor Andres Zoppini at the Roma Tre University said. "But it is difficult to proceed as there are many political differences, all with different views on how to carry out security."

And this is the crux of the problem. For the UK, the numerous opt-outs of regulation fundamental to the Union,

## KEY TAKEAWAYS

- The Treaty of Rome cannot be blamed for Brexit despite its flaws;
- However, the Treaty focused too much on regional cohesion and also mistakenly took the view that there should be a balanced budget for the medium term.

akin to merely dipping its toes in the European project, would only lead one way eventually in hindsight. This also incites fears that other member states could join them.

But Zoppini is unconvinced. The UK has agreed a £37 billion divorce bill with the EU if a deal is reached, a considerable figure for an economy as large as the UK's, but a similar figure for a less advanced country could prove to be impossible.

"This could prove to be a significant challenge for smaller economies to exit," he says. "Would euroscepticism increase due to Brexit? It depends on the negotiations."

# Corporate royalty

National securities exchanges in the US should consider changing aspects of their dual-class stock structures to prevent perpetual ownership of stocks within family blood lines. This was the message put forward by US Securities and Exchange Commission (SEC) commissioner Robert Jackson in yesterday's afternoon session, '*Dual-class share voting structures for listed companies: are they here to stay?*'.

Echoing a speech made in February in Silicon Valley, Jackson outlined that while he agreed dual-class shares had a very obvious value to shareholders and investors alike, in that they provide control and assurance of control to talented founders and allow them to pursue visions using capital, they should by no means last forever.

Dual-class stock means that a public company has issued various types of shares to shareholders, generally in its initial public offering (IPO). These stocks vary in that different classes of stock hold different voting rights, so certain founders, families or early in-

vestors can hold relatively small amount of equity but control voting rights and dividend payments. Currently in the US, holders of these stocks can pass them on their heirs in perpetuity.

"What we should do is step back and ask ourselves what we think a reasonable limitation is on the use of dual-class shares and start there," Jackson told delegates. "Whatever you think about the dual-class rights for the founder, for the current management, you should not believe that they should be entitled to pass control of the company to their heirs."

As a matter of law Jackson argues that the US should not enforce a policy where founders who take the company public are entitled not only to control the company forever over

shareholder objections, but also to pass it on to their heirs.

"I am prepared to give Mark Zuckerberg lifetime control of Facebook, and the same for the founders of Google. I am not prepared to give it to his kids, they have a word for that, it is royalty and we decided

not to go that way in the US a couple of hundred years ago, for better or for worse," he said, adding: "Intergenerational control of Facebook or Google makes very little sense from a corporate governance point of view."

For those that think intergenerational control of some companies is a good idea, Jackson used as an example a number of companies listed on a slide earlier in the session. The founding families of these companies in the US propose to control, give to their children and hold forever in their families control brands like Google, Facebook, Amazon, international media companies, all companies with enormous influence on the evolution of American culture today.



Commissioner Robert Jackson

Earlier in the year, the SEC proposed many changes on the issue. Limitations on intergenerational transfer have already been adopted in Hong Kong and Singapore, but are yet to be adopted in the US.

"I don't know what the limits should be on dual-class, I just think there should some," he said. "Unless you believe that a fully unfettered perfect IPO market exists in the US and we have nothing to worry about, but then I think you should rethink."

## KEY TAKEAWAYS

- Dual-class shares had a very obvious value to shareholders and investors alike, but they should not last forever;
- A policy where founders who take the company public are entitled not only to control of the company forever over shareholder objections, but also pass it on to their heirs, is not sustainable;
- Limitations on intergenerational transfers of companies have already been adopted in Hong Kong and Singapore, but are yet to be adopted in the US.



# Out and about

Museums, archeological treasures and attractions: Rome has it all

Last year we had kangaroos in Sydney and next year's Seoul may be the most technologically advanced IBA Annual Conference yet. But 2018's host city boasts history and culture on a scale that few can compete with. The sprawling metropolis of Rome has three millennia under its belt, was the seat of power of the Roman Empire and houses the heart of the Catholic faith within its confines.

It is likely that many of you have been here before and seen the abundant beauty that the Eternal City has to offer, and if you haven't already, you really should go to see a great trio - the Colosseum, the Pantheon and the Trevi Fountain - and see what the fuss is all about. Once you get through the throngs of iPhone wielding tourists you won't be disappointed, it's a magical place.

But also be sure to take in some of the other incredible things this great city has to offer. Before we look at what to do in Rome, we should have a quick look at what to do outside the city. If you have time, make sure to take a day trip to nearby Assisi - the hometown of Italy's patron saint - where you will see a side of the country usually only revealed in movies, or if time is tighter head to nearby Calcata, a charming old town perched on top of a high cliff 35km north of the city. Those with more time would be foolish to not visit the iconic town of Capri on the Amalfi



coast, one of the favoured destinations of Europe's rich and famous, and an ideal place to take in the azure beauty of the Mediterranean.

Rome's history is a marvel: one could spend a year exploring here and not take it all in. But if you're pressed for time, here are a few sights not to miss: the Roman Forum, the heart of the Roman Empire; the Pantheon, a grandiose church finished in 126AD built by Emperor Hadrian, or the Spanish Steps that climb the steep slope between the Piazza di Spagna at the base and Piazza Trinità dei Monti. This list just goes on and on and on.

The more curious among you would be wise to take a look at a side to Rome not often seen on postcards, the archeological treasure trove that lies just beneath the existing city. As Rome has formed over the last 3,000 years, previous iterations of the city and its buildings have formed the foundations of the new. Take a tour through some of the

abandoned hidden crypts and streets, the ancient Roman Catacombs, the Capuchin Crypt or the San Clemente Basilica to get a glimpse of what old Rome had to offer.

One of Rome's many perks is the fully contained city state Vatican City, both the official headquarters of Catholicism and home to the Pope. The list of historical and cultural can't miss attractions in Rome is extensive enough, but when you factor in the extravagance of the Vatican the list becomes almost embarrassingly long. St Peter's Square, the epicenter of the world's smallest country, is open to the public at all times and is a glorious place to sit with some of the world's best coffee and watch the world go by.

Contained within the tiny city are Saint Peter's Basilica and the Sistine Chapel, the latter of which can only be visited with a ticket to the Vatican Museum, where you could spend several more hours. Expect vast lines, but the

prize is well worth the wait. For the early risers among you with less time to spare, consider the Vatican VIP experience, which not only skips the queue but comes with breakfast.

Most of you will find yourselves in some of the city's finest museums and galleries at various receptions and functions this week, but if this doesn't satisfy your cultural curiosity there is an abundance to explore. The Galleria Borghese and its gardens are a highlight, as are the Capitoline Museums on the Michelangelo-designed Piazza del Campidoglio which includes the bronze statue of Romulus and Remus that give this majestic city its name.

Finally, if you've already been here a few days it might be time to treat yourself. What better way to wind down from the pressures of networking than by visiting the Rocco Forte Spa at the Hotel de Russie, a luxury spa with a salt water hydro pool, a Finnish sauna and steam room.

## VISCHER

Basel Zürich [www.vischer.com](http://www.vischer.com)

**YOUR TEAM FOR SWISS LAW AND TAX**



Meet in Rome:  
Rolf Auf der Maur, Benedict F.Christ, Urs Haegi, David Jenny, Roland M. Müller, Klaus Neff, Christian Oetiker, Nadia Tarolli Schmidt, Thomas Weibel



# WORLD CLASS SPECIALISED CIVIL & COMMERCIAL COURT IN QATAR

[www.qicdrc.com.qa](http://www.qicdrc.com.qa)



محكمة قطر الدولية  
ومركز تسوية المنازعات

QATAR INTERNATIONAL COURT  
AND DISPUTE RESOLUTION CENTRE

  @QICDRC

# QUESTION What sessions are you



**Yuliia Patii**  
AVER LEX  
Ukraine

I am looking forward to the sessions on criminal law, especially those on white-collar crime as it's my area of expertise. I am also interested in ones discussing law firm management.



**Michael Bollen**  
Laurius  
Belgium

I will be focusing on the real estate sessions this week, especially those relating to transactional issues.



**Rodrigo Albagli**  
Albagli Zaliasnik  
Chile

I am really interested in attending the panels on M&A issues and those on law firm management. But I am also here to network, it's a big part of the IBA for me.



**Kay K. W. Chan**  
Admiralty Chambers  
Hong Kong

It's my first time here, and I would like to go to sessions on arbitration as my practice is looking to develop in this area. The rule of law is also of interest to me, given the issues currently happening in Hong Kong.



**Bolanle Hajarat Oniyangi**  
Federal Inland Revenue  
Service  
Nigeria

Tax and transfer pricing are big areas of interest for me. I want to find out more about international practices in these areas.



**Ricardo Azevedo Sette**  
Azevedo Sette Advogados  
Brazil

Two main areas for me are arbitration and corporate litigation. I am very much focused on finding out more about how other countries deal with these topics.

## Under pressure

**U**nderfunded law enforcement agencies need the help of lawyers to succeed in the battle to recover lost art, said speakers at the 'Romancing the stone: Recovery of stolen/confiscated art' session yesterday morning.

Law enforcement agencies are said to be doing phenomenal work across the globe but are increasingly under-resourced. This increases the importance of lawyers and law enforcement to closely collaborate to meet the high demand.

The Bust of the Goddess Diana incident illustrates this need. After being lost during World War II, the piece was returned to the Lazienki Palace in Poland in 2015, having been found in a Vienna auction house. Christopher Marinello, chief executive and founder of Art International, said this was a perfect example of how lawyers and law enforcement can work together so that a positive conclusion can be reached, having persuaded the Polish Commissioner to broach the issue with the Austrian government.

Yet there is a delicate balance that must be found. "When you work on art recovery, you have to be careful not to interfere with any criminal investigations," Marinello said. And this is a balance that is becoming more and more important to find.

**We try to get the local authorities to help us. We usually have individuals on the ground**

Elizabeth Rivas

In 2004, the FBI established a rapid deployment art team to respond to the high number of cases of stolen art. This team works across the globe and has done work recently in Baghdad following the museum looting, on Native American burial sites and in Syria. "We try to get the local authorities to help us," FBI special agent Elizabeth Rivas said. "We usually have individuals on the ground."

There was consensus from the speakers that the US is the most favourable jurisdiction to recover works, due to its adeptness and desire

to help. Yet the 25-year limitation period has caused some difficulties. The Isabella Stewart Gardner Museum Heist, 28 years ago, involved the theft of art valued \$500 million, including works from Rembrandt and Vermeer. Rivas said that the FBI believes they know who is responsible but cannot file charges given that the limitation period has elapsed.

But clients are mostly concerned with resolving rather than litigating cases so the pieces are returned back to them.

Other jurisdictions have more challenging aspects. The Italian state, for

### KEY TAKEAWAYS

- Underfunded law enforcement agencies need the help of lawyers to succeed in the battle to re-cover lost art: the Bust of the Goddess Diana incident is a good example of this;
- Speakers agreed that the US is the most favourable jurisdiction to recover stolen or lost works, due to its adeptness and desire to help. Yet the 25-year limitation period has caused some difficulties.

example, claimed ownership of a bronze statue named Victorious Youth because it was found on a ship with an Italian flag. Panellist Mark Stephens CBE, lawyer at Howard Kennedy, said: "I always thought it was a long stretch, but because the Italian courts have accepted this it should be taken seriously."

To navigate these complexities, clients need the full assistance of government and lawyers together to recover works. Without this, cases go unsolved and beloved works remain lost.



# most looking forward to this week?



**Sudheer Shrestha**  
Kusum Law Firm  
Nepal

Nepal is a small economy and we need to learn first-hand from experts in areas like construction or aviation law. The IBA is the perfect venue for this.



**Lynn Bergeson**  
Bergeson & Campbell  
USA

Investment in sustainable agriculture is a really important and timely topic, and the IBA has some great sessions and discussions on these.



**Sönke Lund**  
Grupo Gispert  
Spain

I am the former co-chair of the International Sales Committee, so this is a hot topic for me, especially issues around ethics and dealing with new issues in business law.



**James Donovan**  
3 Hare Court  
UK

I am looking forward to sessions on business development and arbitration. We have a lot of international clients that are focused on the latter issue and want to support them.



**Sarah Pudifin-Jones**  
General Council of the Bar of  
South Africa  
South Africa

It's my first time here, and I am interested in finding out more about what other jurisdictions do in the shipping law space. It's important in this depressed climate to know about cross-border practices.



**Edward Mapara**  
The Law Society of  
Zimbabwe  
Zimbabwe

Anti-money laundering is a crucial topic because the legal world hasn't come up with a concrete position on this. It's an issue that resonates at the core of the legal profession.

## The digital tax conundrum

Countries around the world are struggling with how to tax digital businesses, especially those are profiting from user data. In yesterday's afternoon session, *'Taxation of the digital economy'*, panellists discussed a number of issues jurisdictions are still working out. While some countries are holding out on digital taxation, others have already put in place measures as they become impatient in waiting to see a global agreement. For instance, India, one of the first countries to act on digital taxation, has put in place a six percent tax on online advertisement for companies with a significant digital presence.

Session chair Peter Canellos, from Wachtell Lipton, Rosen & Katz, set out some of the issues of digital economy taxation.

"The economics of the digital economy are driven by customer data and the customer itself is a source of profit for the platform company," he explains.

Eight of the 10 largest tech companies are US multinationals and when almost all the companies making the most profits are concentrated in one country and the rest of world supplies users, it's not surprising that countries are considering unilateral measures on digital taxes to ensure that these companies are paying enough tax.



"Countries feel that their users are contributing to the profitability of digital businesses, but they are not getting the benefit of the portion of profitability derived from the activities of their own citizens," said Canellos. "The EU is struggling with it and so are other countries."

The wide range of issues that need to be considered is challenging and without a long-term game plan, tax regulations are still targeting yesterday's business ideas, not tomorrow's.

"Nineteenth century tax principles are being applied to 21st century business models," said panelist Sara Luder, from Slaughter and May.

One of the issues that lacks consensus is how to identify a digital business. Take the case of customer loyalty cards: although customers may not realise it, they are giving out valuable data when they sign up for loyalty programmes. How should jurisdictions decide where the value creation occur? Should countries put in minor adjustments or is a major overhaul required?

"It's difficult, if not impossible to ringfence the digital economy," said Caroline Malcolm, senior adviser on tax and digitalization at the OECD.

Added to this challenge is having 116 countries and jurisdictions working towards a consensus. Malcolm ob-

### KEY TAKEAWAYS

- While some countries are holding out on digital taxation, others have already put in place measures as they become impatient in waiting to see a global agreement;
- The wide range of issues that need to be considered is challenging and without a long-term game plan, tax regulations are still targeting yesterday's business ideas, not tomorrow's;
- The problem lies in the fact that eight of the 10 largest tech companies are US multinationals and almost all the companies making the most profits are concentrated in one country and the rest of world supplies users.

serves that the views of countries on digital taxation is generally divided between those that are taking stock of the situation, others that are making targeted changes and focusing on certain businesses, and those making broad brush applications to apply rules. The difficulty is to design tax systems that go beyond the next five to 10 years, and are robust enough to adapt to change, especially as advancements in blockchain and distributed ledger technology continue to change business models. Going forward, examining the business models of companies and their value creation will continue to pose a challenge globally.

# DISPUTES. NO CONFLICTS.



Simon Twigden



Pietro Marino



George Maling



Timothy Elliss



Lucinda Orr



Daniel Levy



Paul Austin

We are a leading disputes-only firm based in London. Our dynamic team comprises highly experienced litigation and arbitration specialists, all of whom practised at leading international law firms.

Our firm has rapidly gained recognition for the results it has achieved for its clients, developing a strong reputation for succeeding in some of the highest value and most prominent international disputes before the High Court in London and in international arbitration proceedings.

Most of our cases are international and multi-jurisdictional in nature. We are independent of formal networks and where a case calls for cooperation with firms in other jurisdictions, we have the flexibility to work with leading lawyers in each jurisdiction appropriate for each individual case.

As well as receiving direct instruction from domestic and international clients, we are the natural choice for full service firms who trust us to advise their clients where they are conflicted.

# ENYO LAW

Contact us at the IBA at [iba2018@enyolaw.com](mailto:iba2018@enyolaw.com)

[www.enyolaw.com](http://www.enyolaw.com)