

Georges Delaume 1921-2016



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Leading arbitration figures have paid tribute to the late **Georges Delaume**, who helped build ICSID as its senior legal adviser in the early 1980s – when it had just one or two cases a year – and was a mentor for many who wanted to specialise in international practice before it became so popular.

Delaume died in Arizona on 16 December, at the age of 95. Originally from Paris, he had lived in the US for 57 years.

Nassib Ziadé, CEO of the Bahrain Chamber for Dispute Resolution and a former acting secretary general and deputy secretary general of ICSID, worked alongside Delaume when he first started at the centre and they remained close friends. He tells *GAR*: “Georges was the day-to-day manager of ICSID as its senior legal adviser at a time when the centre had very few cases and investment arbitration did not enjoy the fame and prominence it has today.”

“He brought great distinction and power of intellect to the position. His personal efforts – together with those of [secretary general and general counsel of the World Bank] **Ibrahim Shihata** – to promote ICSID in arbitration circles and conferences and through the publication of articles in leading law periodicals increased awareness of the centre and paved the way for the success it has since achieved.”

Another former deputy secretary general and acting secretary general of ICSID, **Antonio Parra**, says Delaume “personified ICSID” in the early 1980s, “doing much to position it for the tremendous success it now enjoys”.

Emmanuel Gaillard, global head of international arbitration at Shearman & Sterling, praises Delaume’s relentless promotion of ICSID at a time “when sceptics were suggesting it would never take off”.

“His faith proved to be right and the centre owes him a great part of its success,” Gaillard says.

Delaume was born in Paris in 1921 and studied law there to doctorate level, completing a thesis under the supervision of the eminent private international law scholar **Jean-Paulin Niboyet**.

He moved to England in the aftermath of World War II to continue his legal studies at Cambridge University and then to the US in 1949, becoming a permanent resident.

Delaume initially worked for the legal department of the International Monetary Fund in Washington, DC, from 1949 to 1954, then joined the World Bank under the auspices of which ICSID operates.

He worked full-time for ICSID from 1981 until his retirement in 1986, when he moved to the law firm Curtis Mallet-Prevost Colt & Mosle as an international consultant. During his time at the centre, it handled seminal cases including *Klockner v Cameroon*, *Amco v Indonesia* and *SPP v Egypt* (the "Pyramids" case). Delaume was the first secretary to the tribunal in the jurisdictional phase, a role subsequently taken on by Ziadé in the merits phase.

Alongside his work at ICSID, Delaume taught at the George Washington University for over 20 years and was a prolific writer on law, in both English and French. His publications "have survived the test of time", Ziadé says.

His first book, published in 1947, was his doctoral thesis on conflicts of law – "a major contribution to the history of French private international law".

He also wrote a key text on legal aspects of international lending and economic development financing, which was the first scholarly exposition of theory and practice in this area.

Another of his works was a famous comparative study of private international law entitled *Transnational Contracts: Applicable Law and Settlement of Disputes*. In this and other works, Ziadé says that Delaume explored "a wealth of subjects including the principle of party autonomy, applicable law, conflict of laws and choice of forum clauses, change of circumstances and force majeure, international commercial arbitration, ICSID arbitration, litigation and arbitration of state contract disputes, rules of adjudicatory jurisdiction in the common law and European civil law systems, recognition and enforcement of foreign judgments and foreign arbitral awards in England, the US and Continental Europe and immunity from suit and execution of states and international organisations."

Jan Paulsson of Three Crowns says: "Georges belonged to a small, influential but vanishing breed of civil servants who managed to carry out their workloads while establishing and maintaining themselves as world renowned scholars of international law."

"His considerable body of published work, much of it in French, was characterised by erudition, rigour, objectivity and realism. He naturally favoured the development of international law but was of a conservative bent, unwilling to skip steps or to make claims for the emergence of norms which he deemed to lack the requisite foundation. His awareness of cases and commentary was always up-to-date and seemed encyclopedic."

Ziadé says: "He was a traditionalist in his approach to private international law and did not subscribe to novel academic theories that seemed remote from practical realities. He showed scepticism towards *lex mercatoria*, which he described in one of his articles as 'remain[ing], both in scope and in practical significance, an elusive system and a mythical view of a transnational law of state contracts whose sources are elsewhere'."

Julian Lew QC, an arbitrator at 20 Essex Street in London and head of the School of International Arbitration at Queen Mary University of London, says: "He had an in-depth understanding of the common law and civil law systems essential for blending them for international arbitration. Through his experience and writings, he was influential as commercial arbitration was increasingly used and in the early years of international investment arbitration."

Many remember Delaume as a mentor, including **Yves Derains**, founding partner of Derains and Gharavi International, who first met him in 1972. At the time, Derains was working at the secretariat of the ICC International Court of Arbitration

in Paris, having studied commercial arbitration. Delaume was a friend of his boss, the then secretary general of the court **Frédéric Eisemann**.

Derains calls Delaume “a fascinating individual, animated by a passion for investment protection and investment arbitration”. He “could not tolerate” Derains’ then superficial knowledge of the area and took him publications on the subject on every ensuing trip to Paris.

“These were my first contacts with investment arbitration and I am very grateful to Georges for his priceless guidance,” Derains says.

Derains was not the only one to benefit. Paulsson says: “Georges was quick to spot young authors who shared his enthusiasm for the law and who he thought might have the germ of a new idea – and generous in his guidance and encouragement.”

His attachment to those he mentored, and to contemporaries including **Berthold Goldman, Pierre Lalive** and **FA Mann**, was “unwavering”, says Ziadé. “Georges understood the value and meaning of true friendship and in turn won the loyalty and respect of friends of all ages.”

In 1985, he supported the establishment of the School of International Arbitration at Queen Mary University of London, where students would be taught international arbitration as a standalone subject and on a comparative law basis, with private international law at its centre.

Several note Delaume’s talents and interests beyond the law. “His cultural interests were wide-ranging. He enjoyed classical French literature and was a student of history,” Ziadé says. “He was an avid traveller and watercolour painter and used to combine these two activities by capturing on canvas the beauty of the many places he visited. With his characteristic generosity, he gave many of his paintings to friends. I had the good fortune to receive more than one, which still adorn my office and my home.”

Parra calls him “a wonderful legal writer and accomplished painter”. At the World Bank, he was “a kindly and sensitive manager”.

George Kahale III, partner and chairman of Curtis, recalls “being ecstatic” that Delaume would consider joining the firm on his retirement from ICSID, describing him as a champion of a developing area of law whose work on transnational contracts was by then “mandatory reading” for any aspiring practitioner in the field.

“He was a man of great professional accomplishments but also a true gentleman who understood the meaning of tradition and honour,” Kahale says. “What a privilege it was to know and work alongside him”.

After leaving Curtis in 2005, Delaume moved from Washington to Arizona to be closer to his family. He is survived by his wife Sophia (née Tang), two children and two grandchildren.