

Elina Mereminskaya

Arbitrator

emeremin@gmail.com

Nationality: Chilean & Russian

Languages: Russian (native), English, German, Spanish
(high-level fluency)



Elina is a highly regarded arbitrator with over two decades of international dispute resolution experience.

Based in Latin America, Elina handles high-value complex disputes throughout the region and beyond, working on construction, engineering, and infrastructure disputes between parties based in several jurisdictions including Chile, Brazil, Peru, Colombia, USA, Germany, Spain, Portugal, and China.

Elina is well versed in the international institutional rules of ICC and ICDR and the domestic rules of CAM Santiago (Chile), CCL and PUCP (Peru), as well as in ABTA arbitration (UK).

Elina is a Fellow of the Chartered Institute of Arbitrators (FCIArb) and holds a Ph.D. degree from the University of Göttingen (Germany).

Sector Expertise

- Construction, Engineering & Infrastructure
- Concessions & PPP
- Mining & Energy
- Commercial Dispute Resolution

Construction, Engineering & Infrastructure

Elina is well familiar with diverse project delivery modes: general construction contracts, design & build, EPC, fast tracking, etc. Elina has worked on issues related to all stages of a construction or infrastructure project involves. During the inception stage, she has covered risk definition & allocation, the interpretation of tender & bidding information, effects of limitations included in bidders' offers, definition of the scope of parties' obligations, determination of the prevalence order of different contractual documents, among others. During project execution, she has worked with issues such are approval of a base line program, delay, disruption, design defects variations, valuation of work, loss of productivity, duty to mitigation, acceleration instructed by employer, health & safety requirements, environmental impacts, rescue of areological heritage, Covid-19 related

impact, force majeure, change-in-law, time bars and claim procedures, among others. During termination stage, Elina has dealt with assessment of causes for termination, wrongful or for convenience, descoping of work, collection of warranties, transfer of subcontractors' and suppliers' warranties, and quantum (damages) in relation to delay & variations or change orders, as well as the definition of an adequate strategy for subsequent dispute resolution. Due to the strong presence of multilateral agencies in Latin America, she has broad experience working with FIDIC-based contracts.

Concessions & PPP

Elina has worked on various concessions of public works (public private partnership), dealing with risk definition & allocation; the interpretation of tender & bidding information; application of back-to-back clauses; assessment of contractors' claims against the concession company; as well as of the claims of the concession company against the public authorities; recourse to Dispute Board or to local procedures, among others.

Mining & Energy

A significant part of Elina's experience focuses within mining and energy (Oil & Gas & renewable) sectors. Her practice covers disputes relating to joint operating agreements; procurement and supply chain packages, vendors' warranties; operation and maintenance agreements; grid connection; SCADA; power purchase agreement; transportation of the commodities; as well as environmental and health and safety matters, among others.

Commercial Dispute Resolution

Elina has dealt with a wide range of diverse commercial matters, including disputes arising to sale and purchase of real estates; leasing; banking finance; disputes among companies' owners'; companies' dissolution, among others. Her practical experience is reinforced by her academic carrier teaching private international law; public international law; international sales of goods as well as comparative law. She has addressed various topics from the determination of the applicable law; rules of validity and formation of the contracts; obligations of the parties; remedies for breach of the contract, including performance, fundamental breach, and exemption from the performance of the contracts, among others.

Experience

Arbitrator Experience

- Co-arbitrator in a concession dispute regarding the construction and improvement of roads, International Centre for Dispute Resolution (ICDR)
- Emergency Arbitrator, International Centre for Dispute Resolution (ICDR)
- Co-arbitrator in a dispute regarding a construction project in the mining sector, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Co-arbitrator in a dispute regarding airport concession, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Chair of the arbitral tribunal in a dispute regarding installment of industrial equipment in a mining project, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Chair of the arbitral tribunal in a dispute regarding payment for electricity supply and the availability of the supply, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Chair of the arbitral tribunal in a dispute regarding banking finance, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Co-arbitrator in a road construction dispute, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Chair of the tribunal in a case regarding leasing of indigenous lands through mining companies & construction, Centro de Arbitraje de la Cámara de Comercio de Lima (CCL)
- Sole arbitrator in a dispute regarding a shareholders' agreement, CAM Santiago
- Sole arbitrator in a dispute regarding export of minerals, CAM Santiago
- Sole arbitrator in a dispute regarding a construction of a hotel, CAM Santiago
- Sole arbitrator in a dispute regarding health insurance contract, CAM Santiago
- Sole arbitrator in a dispute regarding a construction project of a commercial center, CAM Santiago
- Sole arbitrator in a dispute regarding company dissolution and administrator's liability, CAM Santiago
- Sole arbitrator in a dispute between a subcontractor and the main contractor in a geothermal project, CAM Santiago
- Sole arbitrator in a dispute about acquisition of a private property, CAM Santiago
- Sole arbitrator in a dispute regarding a construction of a commercial property, CAM Santiago
- Secretary of the tribunal: Construction dispute in a mining project, CAM Santiago
- Secretary of the tribunal: Dispute regarding company dissolution, CAM Santiago
- Co-arbitrator in a road construction dispute between a Peruvian company and the local public authority, Centro de Análisis y Resolución de Conflictos, Pontificia Universidad Católica del Perú (PUCP)
- Co-arbitrator in a road construction dispute between a consortium and public authority, Centro de Análisis y Resolución de Conflictos, Pontificia Universidad Católica del Perú (PUCP)
- Sole arbitrator in 10 travel related disputes with the seat in London, UK, under ABTA Travel Rules
- Sole arbitrator, ad hoc arbitration regarding loan agreement with the seat in London, UK
- Secretary of the tribunal in a joint venture and construction dispute on a project located in Africa, International Court of Arbitration of the ICC

Counsel & Expert Experience

- Representing an Indian client in an ICC arbitration against a Spanish EPC contractor in a dispute related to a photovoltaic plant in the north of Chile
- Representing a national company emissions control system installer in a CAM Santiago arbitration
- Legal opinion report on the application of a back-to-back clause in a FIDIC-related arbitration held before the arbitration center of Tegucigalpa, Honduras
- Representing a Chilean subsidiary of a French company in a CAM Santiago arbitration against a Chinese contractor regarding the subcontract for installment of equipment in a high complexity public hospital
- Legal opinion report for an Italian installer of photovoltaic equipment regarding interpretation of the temperature requirements
- Participation in an expert report for a CCL arbitration brought against the Peruvian oil state company
- Representing a multinational owner of windfarms in a CAM Santiago arbitration against a Portuguese EPC contractor
- Representing a Peruvian subcontractor in an arbitration against a U.S.A. company, one of the world's leading lithium producers
- Participation in a pro bono expert report regarding the construction of a Women's Health Pavilion in Burundi (Africa), in a London-seated ad hoc arbitration
- Participation in the expert report for an Uruguayan road construction company in an ICC arbitration regarding a project located in Paraguay
- Representing a Spanish subcontractor in various CAM Santiago arbitrations regarding the construction of transmission lines and substations
- Legal expert opinion on anti-arbitration injunction in international arbitration in relation to an ICC arbitration
- Preparation of a claim for a Spanish concessionaire against a Ministry of Public Works regarding additional works in a public hospital
- Representing a local provider of centralized control and optical fiber in a high complexity public hospital
- Representing a local advertising agency in an ad hoc with a Dutch advising group regarding royalty payment and contract resolution
- Representing an Indian company in the arbitration of CAM Santiago related to the wind project located in the south of Chile
- Representing a U.S.A. mining company in a CAM Santiago arbitration on the acquisition of mining concessions in northern Chile
- Representing a U.S.A. company in the CAM Santiago arbitration related to a renewable energy project in southern Chile
- Representing a Brazilian construction company in an ICC international arbitration against a Chinese general contractor
- On behalf of a European intergovernmental astronomy organization in defense of the international arbitration award challenged by the Chilean construction company
- On behalf of an US company in defense of the international arbitration award challenged by a Colombian franchisee
- On behalf of a German distribution company in defense of the international arbitration award challenged by the German buyer

Dispute Management

- Advising a state-owned oil company during contract performance with a national construction company regarding installment of a wet-emissions control system
- Risk assessment analysis for Spanish construction companies on numerous residential buildings and commercial centers to be built in Spain
- Advising a Peruvian owned construction company during contract administration and claims against a Canadian led consortium in a mining project a 4.400 masl
- Risk assessment analysis for an Austrian provider of medical equipment for a Chinese concessionaire of a public hospital
- Advising a Chilean subsidiary of a French company in a dispute with Chinese contractor regarding the subcontract for installment of equipment in a high complexity public hospital
- Preparation of a Covid-19 Force Majeure related claim for a Spanish subcontractor that, once elevated, was accepted by the Chilean National Electric Coordinator (CEN)
- Advising a Chinese construction company and its related concession company on concession project of a water dam in their claims against the Ministry of Public Works
- Advising a Spanish construction company in the preparation of FIDIC-based claims against Costa Rican authorities in a road construction project
- Advising a Chilean construction company during work performance and claim submission against a UK listed multinational company in the mining project in the north of Chile
- Advising a Spanish contractor in dispute management, including mediation, on multiple projects for the construction of transmission lines and substations
- Advising a Chilean company provider of waterproofing (geomembrane) installation services in thickeners and mining pools in numerous mining projects
- Advising the biggest Chilean cellulose producer in structuring the contractual scheme (engineering, supply, construction, EPC, risk management) with various subcontractor for the construction of a new production line
- Redesign and redrafting of Codelco's (public copper company) tender information and contractual standard forms
- Advising an Irish client in the execution of the EPC contract with a Portuguese contractor in charge of building wind energy generation and transmission lines
- Advising a client, a state-owned oil company, in the execution of the EPC contract with a Spanish contractor to build a steam generation plant
- Strategic contract & claim management for a Spanish contractor, in its relationship with its Italian consortium partner and their Japanese Employer for the construction of a desalinization plant for a mining project
- Advising a Chilean state-owned oil company, in the implementation of the tank maintenance contract entered into with a Peruvian contractor regarding charging the fines
- Defending a Chinese client, in a contract for the construction of a mall in Santiago, against the claims of a Spanish contractor
- Strategic contract & claim management for an Italian contractor in an EPC contract for the construction of a public hospital in central Chile
- Strategic contract & claim management for Spanish contractor in an EPC contract for the construction of a public hospital

- Advising a Spanish contractor, in a subcontract for the construction of tunnels and blasting in a public dam project in the north of Chile
- Development of a dispute exit strategy for a Czech developer of photovoltaic projects and its Canadian partner
- Advising a national construction company, in the celebration and execution of various real estate projects, including commercial centers and residential buildings
- Advising a Peruvian construction company, in the presentation of its claim to the Chilean client in Peru regarding a building of a commercial center

Academic & Professional Qualifications

Academic

- University of Göttingen, Germany, *Doctorate in Law (Ph.D.)*, 1999-2001
- University of Göttingen, Germany, *Master of Law (LL.M.)*, 1996-1998
- Immanuel Kant Baltic Federal University (formerly Kaliningrad State University), *Law Graduate*, 1991-1996

Professional

- WAGEMANN Arbitration, Santiago de Chile. Head Partner, 2023-2024
- Wagemann Abogados & Ingenieros, Santiago, Chile. Lawyer/Partner, 2017-2023
- Bofill Mir & Alvarez Jana Abogados, Santiago, Chile. Senior Associate International Arbitration/Litigation Group, 2013-2017
- Institute for Transnational Arbitration, Center for American and International Law, Dallas, U.S.A. Co-Managing Editor of the ITA Arbitration Report, 2012-2019
- Arbitration and Mediation Center of the Santiago Chamber of Commerce (CAM Santiago), Santiago, Chile. Special Counsel for International Arbitration, 2007-2013
- School of Law, Universidad de Chile, Santiago, Chile. Lecturer on international private law, international contracts, national & international arbitration, 2004-2021

Professional Associations & Recognitions

- Fellow of the Chartered Institute of Arbitrators (FCIArb)
- Chair of the Americas Initiative, Institute for Transnational Arbitration (ITA), 2022-2024
- Co-Chair of the Sub-Committee, International Construction Projects (ICP) of the International Bar Association (IBA).
- Member of the European Commission's List of Candidates Suitable for Appointment as Chairpersons for Arbitrations under trade agreements to which the EU is a party
- The Legal 500 Arbitration Power List Latin America, 2021 and 2023

- ICC Chile National Committee, 2018-2021
- CAM Santiago, Member of the Directive Council, 2017-2022
- ITAFOR, Co-moderator, 2017-2020
- ICC Advanced Arbitration Academy for Latin America, Participant, 2016-2018

Publications, Articles & Thought Leadership

- “The COVID-19 pandemic in the recommendations of the Chilean Technical Concessions Panel”, *Construction Law International*, January 2024, with Álvaro Jara
- “Knowledge-Based ADR Toolbox for Uncertain Times”, *ICCA Edinburgh 2022 Congress Book*, 2023
- “Chile”, *FIDIC Contracts in the Americas: A Practical Guide to Application*, Ed. Donald Charrett, Taylor & Francis Group, with Alex Wagemann & Fernando Landeros, 2023
- “The elephant in the room: el perito de parte en el arbitraje nacional”, *CAM Santiago: 30 Años de Desarrollo Institucional del Arbitraje y de la Mediación*, Ed. Macarena Letelier Velasco, 2022
- “Recent decisions of Chile’s Supreme Court: can contractors expect a more balanced approach?”, *Construction Law International*, September 2022
- “Latin America Isn’t ‘Going South’: A Qualitative Sampling Analysis”, *Journal of International Arbitration* 39, no. 3, 2022
- “Características y funcionamiento del arbitraje de construcción en Chile: los cambios necesarios”, *Informativo CAM Santiago*, 2021
- “Should the law foresee the unforeseeable? The unforeseeable trends in Chile in view of the Covid-19 pandemic”, *Construction Law International*, September 2020, with Álvaro Jara
- “Управление договорной и претензионной работой в условиях пандемии: опыт Чили”, *Arbitration.Ru*, № 4(19), June 2020
- “Corruption in State Arbitration in The Republic of Peru: Cases, Lessons and Possible Solutions”, *Arbitration.Ru*, № 1, Vol. 16, January-February 2020, with Claudio Inostroza
- “Construction References – Chile”, with Alex Wagemann, *Latin Lawyer*, 2019
- “Valoración de la prueba en el arbitraje internacional”, *Destrezas Legales en el Litigio Arbitral*, Ed. Alfredo Bullard, Lima, Palestra, 2018
- “Cuando la sede del arbitraje no es el lugar de arbitraje y la lex arbitri no es la ley de la sede”, *Lima Arbitration*, № 7, 2018
- “La formación del consentimiento en el contrato de construcción de obra privada: el rol de las aclaraciones y respuestas a consultas”, *Derecho de Construcción*, Santiago, 2017, with Alex Wagemann
- “Suggested Policies for Tribunal-Appointed Experts in Construction Disputes”, Special Issue on Non-Legal Adjudicators in National and International Disputes, *Transnational Dispute Management*, Vol. 14, Issue 2, 2017, with Fernando Landeros
- “El Camino se Hace al Andar: Recurso de nulidad en la jurisprudencia latinoamericana”, *Arbitraje Comercial Internacional. Reconocimiento y Ejecución de Sentencias y Laudos Arbitrales Extranjeros, Organización de los Estados Americanos*, 2014
- “Financiamiento de Litigios a Través de Terceros y su Aterrizaje en Chile”, *Informativo CAM Santiago*, № 3, 2017

- *Arbitraje comercial internacional en Chile: desafíos y desarrollo*, Thompson Reuters, Santiago, Chile, 2014
- “Results of the Survey on the Use of Soft Law Instruments in International Arbitration”, *Kluwer Arbitration Blog*, 2014.
- “Aplicación de un acuerdo arbitral a un tercero no signatario en el derecho chileno: Realidad y perspectivas”, *Revista del Departamento de Derecho Comercial, U. de Chile*, 2013
- “The Making of World Society Through Private Commercial Law: The Case of the UNIDROIT Principles”, *Uniform Law Review*, 2013, with Aldo Mascareño

Recent Speaking Engagements

- Institute for Transnational Arbitration, Annual Workshop, Austin, USA: “Who Stays on the Island? Separating Reality and Hyperbole in Managing Due Process Challenges”, 20 June 2024
- Foro Internacional CIAC – 2023, Lima, Peru: “Arbitration and Dispute Resolution in the framework of Sustainability and Efficiency: ESG”, 24 October 2023
- CAM Santiago: “Women at the Worksite: Best Procedural Practices in Construction Arbitration”, 6 October 2023
- XI° Simposio Internacional de Arbitraje, CCL, Lima, Peru: “How to solve construction disputes more efficiently?”, 5 June 2023
- ICC Chilean Arbitration Day, Santiago, Chile: “The accuracy of fact witness memory”, 8 November 2022
- ICCA, Edinburg, UK: “Post-Pandemic Dispute Resolution Tool”, 19 September 2022

Directories Quotes

Between 2020 and 2024, the international ranking Who is Who Legal (WWL) has distinguished Elina as Global Leader in two categories: Arbitration and Construction. In addition, in 2021, 2022 and 2023, WWL has recognized her as one of the Thought Leaders in Construction. In 2024 she was recognized as one of the Thought Leaders in Construction.

The WWL’s opinion is as follows:

“Elina Mereminskaya is a respected arbitration mind in the Chilean market whose practice focuses on construction, infrastructure, mining and energy disputes.”

“Elina is an expert in arbitration processes and has extensive experience in construction industry conflicts.”

“She is nationally recognized as one of the most knowledgeable lawyers in the area of arbitration cases in Chile.”

Working Languages

- English
- German
- Spanish
- Russian