

# AFFAKI



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## AFFAKI: Global Knowledge

Specialised in international dispute resolution, banking and finance law and regulation, and law reforms in transition economies, AFFAKI is an international law firm with the know-how and tools to meet its clients' needs.

Combining leading positions in international organisations and academic institutions, Georges Affaki has developed decades' worth of expertise in international commercial, financial, and investment law, as well as dispute resolution. Founding Partner Georges Affaki is admitted to practice as an *avocat* before the Court of Appeal of Paris. Associate Juliette Musso is an attorney and *avocat* dually qualified to practice before the courts of the State of New York and the Court of Appeal of Paris.

Reflecting its lawyers' international backgrounds, the firm's professional services are offered in English, French, and Arabic. AFFAKI offers advice on civil law, international law, and comparative Arab law. Georges Affaki is an empanelled arbitrator with the leading arbitration institutions in Europe, Asia, the MENA region, Oceania, and the Americas.

AFFAKI's clients include international financial institutions, multilateral organisations, and global businesses across five continents, representing every sector of finance, trade, and industry.

AFFAKI shares its culture of excellence with a network of leading independent firms from around the world, with which we work to ensure the highest level of service to our clients for every imaginable cross-border need.

### Practices

- International Arbitration and Litigation
- International Banking and Finance
- International Contracts
- International Investment
- Arab Laws and *Shari'a*
- Economic Sanctions
- Regulatory Investigation
- Law Reforms in Emerging Markets

### Sectors

- Commodities
- Construction
- Energy
- Financial Services
- Industry
- Defence and Military Procurement
- Telecoms
- Investment

## International Arbitration

### *Rising to Cross-Border Challenges*

With extensive experience in international arbitration cases around the world, AFFAKI represents a high-profile, international client base in arbitral proceedings across five continents in English, French, and Arabic.

The Firm's successes are internationally recognised. AFFAKI is listed by *Chambers and Partners* in the Dispute Resolution category, and Georges Affaki is listed amongst the Most in Demand Arbitrators in France. The Firm is also consistently ranked in the *Euromoney Guide to the World's Leading Experts in Commercial Arbitration*, the leading guide to the top practitioners in commercial arbitration.

AFFAKI's experience is broad and deep. The Firm acts in both international treaty and contract-based arbitrations and has dealt with a diversity of matters. Cases taken on by AFFAKI have included those involving long-term energy supply contracts, construction projects, property development, financial services, telecom services, transportation, defence and military procurement, humanitarian relief, distribution and franchising agreements, investments, commodity trading, and joint ventures. The Firm has acted in arbitrations under a broad variety of applicable laws, at a diversity of seats, and administered under a large range of institutional and *ad hoc* rules.

#### **A Snapshot of Our Significant Cases:**

- Setting the strategy and simultaneously leading enforcement actions for an investment arbitration award in an Arab country, resisting a demand for payment of bank guarantees by the respondent before a European Union member state court and, ultimately, brokering a global settlement.
- Successfully arguing the characterisation of a complex, high-value series of bank guarantees as a qualifying investment under the applicable treaty leading to a comprehensive indemnification from the host State in Permanent Court of Arbitration Case 2012/11.
- Advising on an arbitral claim involving non-signatory parties in relation to the recovery of monetary debts arising under a sale of goods contract backed by an Islamic finance *musharakah*.
- Chairing an International Working Group organised under the ICC Arbitration Commission and drafting a comprehensive report on Financial Institutions and International Arbitration.
- Chairing the revision of the P.R.I.M.E. Finance Arbitration Rules.



**Georges Affaki is a Chartered Arbitrator, a Fellow of the Chartered Institute of Arbitrators, a member of the ICC International Court of Arbitration, and a member of the Panels of Arbitrators and Conciliators of ICSID. He has served as chairman, panel member, and sole arbitrator in investment and international commercial arbitral proceedings under the rules of the leading institutions at which he is empanelled:**

- Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCCAC);
- ADGM Arbitration Center;
- Asian International Arbitration Centre (AIAC);
- Australian Centre for International Commercial Arbitration (ACICA);
- Bahrain Chamber for Dispute Resolution (BCDR-AAA);
- Cairo Regional Centre for International Commercial Arbitration (CRCICA);
- Chartered Institute of Arbitrators (CI Arb);
- DIFC-LCIA Arbitration Centre;
- Dubai International Arbitration Centre (DIAC);
- Hong Kong International Arbitration Centre (HKIAC);
- International Centre for Dispute Resolution (ICDR);
- International Centre for Settlement of Investment Disputes (ICSID);
- International Chamber of Commerce (ICC);
- Japan Commercial Arbitration Association (JCAA) ;
- Jerusalem Arbitration Centre (JAC);
- Korean Commercial Arbitration Board (KCAB);
- Lebanese Arbitration and Mediation Center (LAMC);
- London Court of International Arbitration (LCIA);
- Pacific International Arbitration Centre (PIAC);
- Permanent Court of Arbitration (PCA);
- P.R.I.M.E. Finance;
- Russian Arbitration Association (RAA);
- Saudi Centre for Commercial Arbitration (SCCA);
- Singapore International Arbitration Centre (SIAC);
- Tehran Regional Arbitration Centre (TRAC);
- Thailand Arbitration Centre (THAC);
- Vienna International Arbitration Centre (VIAC); and
- World Intellectual Property Organization (WIPO).

## International and French Court Litigation

### *Your Global Advocates*

Representing its clients before national courts and banking and financial market regulatory authorities, AFFAKI's expertise positions it to confront any type of business dispute. The Firm leads cross-border and complex claims, defences, and enforcement proceedings involving issues such as conflicts of laws, jurisdictional challenges, parallel proceedings, asset tracing, and enforcement actions.

AFFAKI also specialises in providing legal and strategic advice to international corporations in the context of crisis management, international litigation, regulatory actions, and the taking of evidence in cross-border disputes. Numerous senior directors and board members of major corporations have sought AFFAKI's counsel in relation to both corporate and personal liability arising in the course of their employment and the exercise of their fiduciary duties.

The Firm's litigation successes have been recognised by *Legal 500*, which recommends AFFAKI for Commercial Litigation in France, while *Chambers and Partners* lists AFFAKI as a leading French firm in *Dispute Resolution: Litigation*.

### **A Snapshot of Our Significant Cases:**

- Leading an international counsel team composed of three law firms in the PRC and France in the retrial of an international precedent-setting banking case before the Supreme People's Court of the People's Republic of China under Article 200 of the Civil Procedure Law [(2020) Zui Gao Fa Min Shen No. 6932 and (2020) Zui Gao Fa Min Shen No. 6923].
- Leading an international counsel team composed of three law firms in France, Italy, and the U.K. in successfully arguing the lack of jurisdiction of local courts in Italy regarding a provisional injunction over high value counter-guarantees, while simultaneously asserting *lis pendens* before English courts on the merits under article 29 of the Brussels 1 Regulation (recast). The dismissal of an injunction with prejudice and an award of costs were obtained [Tribunale Civile, N.R.G. 2016/39181].
- Acting as French law Counsel on French and European financial regulation on behalf of the Libyan Investment Authority (LIA) in relation to a US\$ 2.1 billion claim [High Court of Justice, Queen's Bench Division, Commercial Court, Claim No. 2014 Folio 260] (listed in *The Lawyer's Top 20 Cases in 2017*).
- Successfully arguing a motion to dismiss before French courts in relation to a bank fraud case, on the basis of the E.U. Regulation on Jurisdiction and obtaining damages for abusive proceedings [Tribunal de Commerce de Nanterre, Aff. 2015F00183].

- Representing an international bank against a French bank before the Paris Court of Appeal in relation to a liability claim under financial instruments impacted by E.U. Sanctions Regulations [Appeal No. 17/26558].
- Acting as lead counsel, devising the strategy and coordinating the work of local counsel in Ukraine, Austria, the U.S., and Belgium in relation to the recovery of a monetary debt arising in the matter of a fraudulent transaction, involving conflicting arbitration and litigation jurisdictions, regulatory, criminal, and civil proceedings before multiple jurisdictions, both *ex parte* and on the merits [Antwerp Court, A/14/11063].
- Acting as lead counsel in the matter of a wrongful dishonour of an interbank reimbursement agreement in relation to a multi-million-euro documentary credit subject to UCP 600, involving multiple summary judgement, trial, and regulatory proceedings in Algeria [*KBC v/ Natixis, Algiers (Harrache), 15/06766*].
- Acting as international banking law and practice expert in support of counsel work in the matter of the global enforcement of multiple bank guarantees and counter-guarantees before various jurisdictions in the Middle East and North Africa.
- As in-house counsel, overseeing and coordinating over a period of five years a major international bank’s response to multiple investigations commenced by national regulators, law enforcement authorities and congressional committees in the United States and Europe in relation to the bank’s compliance with economic sanctions regulations. The case involved the coordination of simultaneous investigations and enforcement actions in the U.S., France, Italy, the U.K., Switzerland, Singapore, and Dubai and the management of a global budget of over EUR 150 million. The case ended with a settlement of US\$ 9 billion and no indictment.

## **Other Litigation-related Activities include:**

- Acting as Rapporteur on International Law Association Resolution No. 3/2012 on “*Principles of Jurisdiction over Foreign Bank Branches in the Matter of Extraterritorial Attachment and Turnover.*” The resolution was sponsored by the Committee on International Monetary Law (Mocomila) and unanimously adopted at the 75<sup>th</sup> Conference of the International Law Association held in Sofia, Bulgaria.

## International Banking and Financial Market Regulation

### *Making the Grade in Global Banking*

With the Firm's broad experience, spanning in-house legal responsibilities and external counsel regulatory advice and litigation support, combined with leading positions in international organisations active in rulemaking and standard setting for banks, AFFAKI provides its clients with comprehensive legal services in global banking and finance. AFFAKI's advice addresses the needs of financial institutions and their clients in French, European, and international banking and financial regulation, and includes legal services at every stage of a financing transaction or project: from the key structuring stage to the perfection of the security package, along with any recovery and enforcement action required.

AFFAKI's reputation for excellence in international banking and finance has led *Chambers and Partners* to list AFFAKI as a top Banking & Finance: Financial Service Regulation firm in France.

#### **Key areas of AFFAKI's expertise:**

##### *International, European, and French Bank Regulation*

AFFAKI specialises in advising financial institutions and multinational companies on international, European, and French bank regulatory matters. The Firm's expertise includes new activity and product licensing, regulatory requirements in the wake of Brexit, compliance with economic sanctions and anti-money laundering regulations, and representing its clients in regulatory audit and disciplinary proceedings before the French *Autorité des marchés financiers* and the *Autorité de contrôle prudentiel et de résolution*.

Georges Affaki also contributes to global banking and financial policy and rulemaking. He is a founding member of the ICC Financial Crime Risk and Policy Group and, as Chairman of the Legal Committee of ICC Banking Commission, has led the organisation's global effort to issuing market standards on Sanction Clauses in Trade Finance Instruments, the Bank Recovery and Resolution Directive, and the Capital Requirement Regulation (CRR/CRD IV).



## *Bank Restructuring, Internal Control, and Legal Department Organisation*

AFFAKI has considerable experience in preventing and resolving difficulties encountered by multinational companies and financial institutions. Having helmed the legal department of a major international financial institution, Georges Affaki is in a unique position to advise on corporate restructuring and legal risk control as part of both permanent and periodic internal control regulatory requirements.

## *International Secured Lending*

With Professor Affaki's academic and professional experience in international banking and finance, AFFAKI is highly experienced in structuring complex, cross-border secured financing in civil law, common law, and Islamic legal systems. Georges Affaki has drafted domestic legislation for several countries in relation to secured transactions and guarantees, as well as globally accepted rules in relation to demand guarantees, documentary credits, standby letters of credit, and trade finance dispute resolution for a number of international institutions.

## *Project, Trade, and Commodity Finance*

AFFAKI has widely acknowledged expertise in project, trade, and commodity financing, advising banking institutions and companies around the world on secured financing in emerging markets, involving structuring countertrade, borrowing bases, warehouse financing, pre-payment, pre-financing, and deferred payment secured financing structures and associated letters of credit, guarantees, and other cross-border trade finance instruments. In addition, Georges Affaki has led or participated in trade finance-related standard-setting, including URDG 758, UCP 600, and the UNCITRAL Model Law on Secured Transactions. His advice is sought by banking institutions, businesses, lawmakers, and regulators worldwide.

## **Representative Experience:**

- Representing a leading international financial institution in relation to a dispute with a European exporter under a series of high value, complex bank undertakings as concerns the application of European financial sanctions regulations, conflict of laws, and a large spectrum of disputed contractual issues.
- Representing a foreign bank in a regulatory audit by the ACPR under French banking regulations in relation to internal controls, involving extensive coordination with the bank supervisor regulatory audit unit, filing multiple submissions on behalf of the examined bank, and overseeing the bank's response to the audit report and the

implementation of its findings. The supervisor assessed no sanction against the bank at the end of the proceedings.

- Representing a leading foreign bank in the bank regulatory aspects of a criminal investigation in France, involving the filing of memoranda and successfully arguing before the French bank regulator on the application of a multilateral legal assistance treaty.
- Advising a foreign bank on the legal effect of sovereign debt rescheduling on bank financing, including cases of national debt moratoria and IMF-approved currency and capital control.
- As Chair of the ICC Banking Commission Legal Committee, leading group works on the Capital Requirements Regulation and Directive – CRR/CRD IV. This included a particular focus on credit mitigation techniques under article 194 of Regulation (EU) No 575/2013 (CRR), as well as on the E.U. Bank Recovery and Resolution Directive (BRRD) including contractual bail-in recognition in certain credit agreements pursuant to article 55.
- Advising an international bank on the application of E.U. sanctions regulations in relation to a complex set of counter-guarantees governed by different national laws.
- Advising an online gold bullion exchange on complex bank and financial market licensing regulation and disclosure requirements in relation to anti-money laundering laws.
- Representing a major bank in a regulatory audit by the ACPR under French banking regulation No. 97-02 on Internal Control, involving extensive coordination with the bank supervisor regulatory audit unit, multiple submissions on behalf of the examined bank and overseeing the bank's response to the audit report and the implementation of its findings. The supervisor assessed no sanction against the bank at the end of the proceedings.
- Drafting and implementing a comprehensive secured financing set of terms and conditions for an international bank in relation to its commodity and trade financing operations.
- Advising and issuing regulatory opinions on the risk treatment of credit mitigation techniques under article 194 of Regulation (EU) No. 575/2013 (CRR).
- Advising an international bank on the structuring and the drafting of payment undertakings in relation to a series of complex refinancings of commodity-related documentary credits.
- Advising on the structuring of off-balance sheet financial undertakings to meet eligibility requirements to benefit from the protection of investment treaties.

## Compliance and Corporate Investigations

### *Looking Out for You in a Complex Regulatory Environment*

Advising financial institutions and international companies on compliance matters, AFFAKI counsels on French, European, and international bribery, economic sanctions, and market conduct compliance standards and can guide its clients through any investigation or enforcement action.

The Firm's experience spans both in-house and external counsel roles, allowing us to confidently lead complex compliance investigation and get our clients through enforcement proceedings. Our professional services comprise the establishment and direction of multidisciplinary in-house, external counsel, and consultant teams in charge of conducting internal investigations, voluntary disclosures, and the management of parallel international proceedings.

We offer our clients a full suite of advice on cross-border economic sanctions, know-your-customer diligence rules, blocking statutes, and data protection requirements on a global scale.

#### **Representative Experience:**

- Advising the French branch of a foreign bank in the matter of complex criminal proceedings, opposing a French criminal court-issued subpoena seeking to obtain protected data held abroad, and successfully arguing the case for an international voluntary initiative leading to the obtainment of the sought data through the application of a bilateral mutual legal assistance treaty.
- Coordinating and running an internal investigation in several affiliates of a leading financial institution in relation to alleged breaches of US economic sanction regulations, leading to a global settlement agreement and a deferred prosecution agreement.
- Regularly advising financial institutions, trading firms, and industrial companies on E.U. and international sanctions-related issues, including establishing and auditing global compliance systems.

## Comparative Arab Law and Islamic Finance

### *Bridging the Cultural Divide*

True to its international reputation, AFFAKI's client bases span across the globe. The Firm's cultural and linguistic capacities have led it to be particularly trusted by clients dealing with the Arab world, who benefit not only from AFFAKI's expertise but also that of the Firm's network of trusted legal counsel throughout the MENA region. Through years of experience, AFFAKI has an intimate understanding of the business and legal environment in which its clients operate, ensuring that clients receive full professional services that cover all of their needs in relation to their projects involving the Arab world and Islamic finance.

To that end, AFFAKI offers full legal services in Arabic, English, and French, including negotiation, advocacy, drafting, and implementing transactional documents. The team is intimately familiar with and has substantial experience advising on Arab law matters and, where relevant, their *Shari'a* sources.

AFFAKI's experience is multiplied by the Firm's sophisticated network of correspondent law firms, which includes some of the leading independent firms in the Arab world.

With respect to Islamic law and finance, Georges Affaki has a comprehensive understanding and unrivalled expertise in France in advising and structuring complex Islamic finance transactions on behalf of both French and international clients.

AFFAKI aims to develop and foster new and innovative products for the Islamic finance industry. Our experience with and knowledge of *Shari'a*-compliant products and documentation is truly second to none. Georges Affaki's experience includes:

- The chairmanship of the Working Group on Applicable Law and Dispute Resolution in Islamic Finance at Paris EUROPLACE, resulting in a report presented to the French Government, also translated into Arabic and English.
- Lecturing on Islamic finance at Université Paris Dauphine and regularly speaking at international conferences and seminars on Islamic finance. His research papers are regularly published in leading publications.
- Sitting as arbitrator in multiple, high-value, institutional and *ad hoc* proceedings under *Shari'a* as applicable law on the merits or procedure and appearing as an expert on Islamic law before several international arbitral tribunals.
- Advising on complex Islamic finance transactions, including the identification of appropriate contracts in *fiqh* and their adaptation into other legal systems.

## Law Reforms in Transition Economies

### *Embracing Modernity, Respecting Tradition*

Combining decades of experience as a professor of international and comparative law and international arbitration, as well as corporate counsel, Georges Affaki has led numerous international law reforms projects. He has led rule-drafting projects that resulted in globally accepted standards in the relevant sectors. The rules he has drafted are now used in trade and secured finance both in the developed and developing world. The international background of AFFAKI's team allows it to bridge cultural and legal gaps, with a particular focus on the MENA region.

Both in his academic research and his professional practice, Georges Affaki has acted as an arbitrator, expert, and counsel in disputes arising out of sovereign debt rescheduling and international debt recovery by investment funds. As a result of this work, he is considered a leading expert in advising sovereign States and creditors on such complex proceedings.

#### **Representative missions include:**

- As a consultant to the World Bank's International Finance Corporation (IFC), conducting an independent assessment of the secured transaction law reform project in Morocco, involving the analysis of the existing legislative system, its benchmarking against international standards, multiple meetings with the local and the international stakeholders, and issuing a final neutral opinion.
- As a consultant to the World Bank's Foreign Investment Advisory Services (FIAS), advising on the drafting and the enactment of the OHADA Uniform Act on Secured Transactions (adopted 15 December 2010 in Lomé).
- As a member of the UNCITRAL Working Group VI, co-drafting the Model Law on Secured Transactions.
- As the Chair of the ICC Task Force on Guarantees, chairing the drafting group for the Uniform Rules for Demand Guarantees (URDG), which are universally applied today.
- As a consultant to the International Trade Centre (WTO/UNCTAD), drafting a report on access to credit in transition economies and a report on trade finance (awarded the European Prize for Interdisciplinary Research).
- Acting under numerous other academic assignments, leading to the proposal of legislative reforms on civil transactions, commercial banking, and arbitration in various jurisdictions.





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Georges Affaki is a professor of law at the Université de Paris II and an *avocat* admitted to practice before the Court of Appeal of Paris. He is a Chartered Arbitrator, a member of the ICC International Court of Arbitration and of the ICSID Panels of Arbitrators and Mediators. He serves as chairman, panel member and sole arbitrator in investment and in international commercial arbitral proceedings under the rules of leading arbitral institutions.

He is a Fellow of the Chartered Institute of Arbitrators and a Fellow of the Australian Centre for International Commercial Arbitration (ACICA). He is consistently ranked by *Euromoney* in the Guide to the World's Leading Experts in Commercial Arbitration and is listed by *Chambers and Partners* as amongst France's Most in Demand Arbitrators and for his expertise in financial regulation and in litigation.

He is the Chairman of ICC France Banking Commission and chairs the Legal Committee of the ICC Banking Commission, which he founded. He is a member of the Board of Governors of the UNIDROIT Foundation and a Council member of the ICC Institute. He has led or participated in several law reforms in transition economies.

Georges Affaki chairs the revision of the P.R.I.M.E. Finance Arbitration Rules and has co-chaired the ICC Task Force on Financial Institutions and International Arbitration. He also chaired the French Arbitration Committee working group on Arbitration in Banking and Financial Matters. He acted as Rapporteur in relation to the International Law Association Resolution on international jurisdiction over foreign bank branches, and chaired a Paris EUROPLACE working group on Islamic Finance.

He is the author or editor of several books and over 80 articles and case notes on international arbitration and litigation, international banking, economic sanctions, cross-border insolvency, and Islamic finance.

He is fluent in Arabic, English, and French. In 2019, he was appointed Foreign Trade Counselor of France by Ministerial Decree, in recognition of his expertise in international trade and dispute resolution.

He holds trustee positions in many non-profit organisations and is actively engaged in community projects. He was awarded the European Prize for Interdisciplinary Research.



## **Juliette Musso**

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Juliette Musso is a qualified Avocat before the Court of Appeal of Paris and an Attorney-at-law qualified in the State of New York. Her practice focuses on international dispute resolution.

Juliette holds a Master 2 in International Private Law and International Commercial Law from the University of Paris 1 Panthéon-Sorbonne which she obtained with honours. She also attended Chicago-Kent College of Law where she graduated with an LL.M in US, International, and Comparative law with honours.

She is fluent in English and French.

## What They Say About Us

- *“Georges Affaki is brilliant, very knowledgeable and humble at the same time.”*  
**Chambers and Partners, Dispute Resolution: Financial Services Regulation – France.**
- *“Georges Affaki is noted for his banking expertise, with one source saying: "He has a strong command of various fields of law such as banking, finance and sanctions."”*  
**Chambers and Partners, International Arbitration: Arbitrators - France.**
- *“Georges Affaki is very impressive, highly organised, very efficient and very rigorous.”*  
**Chambers and Partners, International Arbitration: Arbitrators - France.**
- *“Georges Affaki of AFFAKI is ‘an excellent lawyer, extremely committed to his clients and with unrivalled expertise in international bank guarantees,’ according to sources. He remains a popular choice for arbitrations seated in the Middle East.”*  
**Chambers and Partners, International Arbitration: Arbitrators – France.**
- *“Georges Affaki of AFFAKI acts for a number of international banks and financial institutions on contentious and non-contentious regulatory mandates. Sources praise his ‘team-working skills’ as well as his ‘international exposure.’”*  
**Chambers and Partners, Banking & Finance: Financial Services Regulation – France**
- *“Dr. Georges Affaki is an incontestable authority in his field.”*  
**The Co-Chair of the 2<sup>nd</sup> Dutch Arbitration Day, introducing Georges Affaki as Chairman of the Panel on Financial Services Arbitration, Amsterdam.**
- *“Dr. Georges Affaki is one of the world’s foremost experts on bank guarantees, the author of the leading textbook on the URDG, and an acknowledged international arbitrator and expert.”*  
**Anette Stavem Høgmoen, Chair of the Norwegian ICC Banking Commission, introducing Georges Affaki as the main speaker at the Oslo Conference.**
- *“Georges Affaki is highly regarded for his financial services regulation practice, within which he is frequently seen on multi-jurisdictional matters. Clients appreciate that ‘he uses clear, logical steps to understand an issue from all angles before advising,’ adding that he is ‘detail-oriented and therefore capable of foreseeing areas of difficulty or challenges and address them proactively.’”*  
**Chambers and Partners, Banking and Finance: Financial Services Regulation – France.**
- *“Georges Affaki, an expert in both fields, has contributed the most to the rapprochement of banking and arbitration.”*  
**The Chairman of Le Café des Arbitres, introducing Georges Affaki as speaker.**

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