

# WWL

## Thought Leaders Arbitration 2019



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*Interviews with the pinnacle of the profession*



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## Biography

Charles Poncet was born in 1946 and studied law in Geneva and Washington, DC. He has a master's degree in comparative law from Georgetown Law School (1973) and PhD in law from the University of Geneva (1981). He is a former member of the Swiss Parliament (1989–1995) and a practising lawyer in Geneva. He retired from CMS von Erlach Poncet at the end of 2016. He speaks French, English, Italian, German and Spanish (in progress).

*What inspired you to pursue a career in arbitration?*

The unexpected opportunity to work for Pierre and Jean-Flavien Lalive when I was finishing my PhD in law. That was an amazing experience, for which I am deeply in debt to both of them.

*In what ways has arbitration changed since you started practising?*

It has become much more sophisticated, technically speaking. Cases tend to be more complicated. The average quality of counsel has dramatically improved.

*What do you enjoy most about your current role?*

I have reached the age where I no longer have to prove anything!

*How has your experience as a litigator enhanced your practice in arbitration?*

Litigators know the value of "leg work", by which I mean reading every single piece of paper in a case and leaving no stone unturned.

*In your opinion, what are the consequences of the Achmea ruling for investment arbitration?*

They are still to be seen. *Achmea* was actually a very narrow ruling. That said, there is clearly an offensive against investment arbitration emanating from the European Commission. This is regrettable.

*What do parties look for in a top-flight arbitrator?*

I suppose the assurance that the person they appoint will turn up at the hearing having read everything; keeps an open mind on the issues; listens to the arguments and the witnesses; and will make sure that nothing important to the party appointing him or her escapes the chair's attention.

*What are the advantages of commercial and investment arbitration?*

The "day in court" the parties get is considerably more thorough and in-depth than in most state courts. This applies to both. The proposition that in future some "professional" judges should dispose of complex investor-state cases, on the basis of written pleas and a hearing lasting a couple of hours, strikes me as shockingly stupid and utterly counterproductive. It will simply discourage investment into EU countries.

*You have enjoyed a very distinguished career so far. What would you like to achieve that you have not yet accomplished?*

When I write an award, I would love to be able to get rid of the anguish that I may be getting it wrong, which makes drafting it such painstaking and hard labour, but that's unlikely to happen.