

# Yves Herinckx

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Yves Herinckx acts as an **arbitrator** and sits as a deputy **judge** at the Brussels court of appeal, Markets Court division.

He focuses on the adjudication of business disputes. As an arbitrator, he has acted both in institutional and ad hoc arbitrations, as chairman, sole arbitrator, co-arbitrator and mock arbitrator. He has also sat as a judge in annulment proceedings. The types of cases he handles mainly relate to finance and insurance matters, M&A and corporate disputes, commercial contract cases, as well as antitrust and regulated industries. He was a co-mediator in the negotiations that led to the largest securities class settlement ever in Europe, between the former Fortis shareholders and Ageas, and is now chairman of the board of the Dutch foundation that supervises the settlement's implementation.

His independent arbitration firm was set up in 2012. He was until then a partner at Clifford Chance, where he led the banking and finance practice of the Brussels office. He has been the managing partner of that office for 14 years. He was Vice-Chair of the European Single Resolution Board's Appeal Panel until March 2018. He has worked in Tokyo and in London.

## Professional qualification

avocat (Brussels)  
solicitor (England and Wales)

## Professional experience

2012~ independent arbitration practice  
2009~ deputy judge (*conseiller suppléant*) at the Brussels court of appeal, currently in the Markets Court division  
2023~ chairman of the board, van de Put & Co Private Bankers SA  
2016~ chairman of the board, FORsettlement  
2015~2018 Vice-Chair, Appeal Panel of the European Single Resolution Board

1991~2012 Clifford Chance, Brussels; head of banking and finance practice; partner since 1992; managing partner 1995~2005 and 2006~2010  
1990~1991 Clifford Chance, London; associate  
1986~1990 Baker & McKenzie, Brussels; associate  
1984~1986 Baker & McKenzie, Tokyo; associate

### **Education**

1984 research student, Hitotsubashi University, Tokyo  
1982 law degree (*licence*), UL Brussels, *summa cum laude*  
1979 bachelor (*candidature*) economics and computer science, UNamur, *summa cum laude*  
1977 admission certificate civil engineering, UC Louvain

### **Awards**

Listed in *Who's Who Legal Arbitration 2023*, *Legal 500 Benelux Arbitration Powerlist 2022* and *2021-2022 Best Lawyers in Belgium – Arbitration*. Ranked as “leading” by *Leaders League 2023*; *Global Law Experts's* “Arbitration Expert of the Year in Belgium 2022” award; nomination by *Best Lawyers* as “Brussels Finance Lawyer of the Year” 2016 and “Brussels Banking Lawyer of the Year” 2010; *Acquisition International's* “Best for Financial Services Arbitration – Belgium” 2015 award and “Most Outstanding Business Dispute Adjudicator” 2016 award. Numerous nominations by *Euromoney* as one of the “Best of the Best”, the “World's Leading Banking Lawyers”, the “World's Leading Securitization Lawyers”, the “World's Leading Capital Market Lawyers” and the “World's Leading Structured Finance Lawyers”. Ranked as “highly recommended”, “leading individual” or equivalent by *Chambers*, *Legal 500*, *PLC Which Lawyer?* and *IFLR 1000* directories. Pierre de Harven prize at ULB, 1982.

### **Publications**

Various publications in the fields of arbitration law and banking law, see annex

### **Languages, nationality, date of birth**

English, French, Dutch; Belgian nationality; born 1 June 1959

## Yves Herinckx – publications

- “L’implication des arbitres dans les procédures judiciaires relatives à leurs sentences”, case note under Cass., 10 February 2023, *RDC*, 2023, to be published
- “Enforcement of Awards v. Enforcement of Judgments in the EU: Arbitration Must Catch Up”, *J. of Intl. Arb.*, 2023, p. 155
- “Mentionner les voies de recours lors de la communication d’une sentence”, *b-Arbitra*, 2022, p. 416
- “Secrétaire arbitral – Secret ou transparence du fonctionnement interne du tribunal”, *b-Arbitra*, 2021, p. 416
- “Award Notifications Should Explain How to Seek Annulment”, *ICC Institute Newsletter*, June 2022
- “Award Notifications Should Explain How to Seek Annulment”, *CEPANI Newsletter*, February 2022
- “Rôles respectifs de l’expert « tiers décideur » et de l’arbitre dans le contentieux post-acquisition”, *Liber Amicorum Jean-Pierre Blumberg* (Intersentia 2021), pp. 285~317
- “Further developments from the Constitutional Court on the non-arbitrability of residential lease disputes”, *CEPANI Newsletter*, March 2021, p. 2
- “The Constitutional Court validates the non-arbitrability of residential lease disputes”, *CEPANI Newsletter*, November 2020, p. 2
- “L’arbitrage, son coût et le droit d’accès au juge”, case note under Cass., 7 November 2019, *JT*, 2020, p. 440
- “The Impact of the IBA Guidelines and Rules on the Search for the Truth in Arbitration”, co-authored with Marieke van Hooijdonk, in Luc Demeyere (ed.), *Do arbitral awards reveal the truth?* (Wolters Kluwer 2019), pp. 93~120
- “Non-Arbitrability of Residential Lease Disputes in Flanders”, *CEPANI Newsletter*, January 2019, p. 3
- “Les délais de recours contre les sentences arbitrales et leur exequatur”, case note under Cass., 20 April 2018, *JT*, 2018, p. 720
- “Garanties bancaires et arbitrage”, *Actualités en droit commercial et bancaire, Liber amicorum Martine Delierneux* (Larcier 2017), pp. 317~338
- “Brussels prohibits arbitration clauses in residential leases”, *CEPANI Newsletter*, October 2017, p. 3
- “Judicial Protection in the Single Resolution Mechanism”, in R. Houben and W. Vandenbruwaene (eds.), *The Single Resolution Mechanism* (Intersentia 2017), pp. 77~119
- “Pour la dénonciation des traités bilatéraux en matière d’arbitrage”, *JT*, 2015, p. 690

- “Arbitrage, mesures provisoires et responsabilité du demandeur”, *b-Arbitra*, 2015, p. 89
- “La loi relative à la continuité des entreprises — le point de vue du candidat — traitement différencié des créanciers — réflexions critiques et droit comparé”, *RPS*, 2015, p. 5
- “Droits d’enregistrement et sentences arbitrales : nouveaux développements”, *b-Arbitra*, 2014, p. 421
- “Liability for Inappropriate Interim Measures in Commercial Arbitration”, *Cah. arb.*, 2014, p. 243
- “Belgium: no longer a proper guerrilla terrain for arbitration”, *IBA Arbitration News*, February 2014, p. 55
- “Droits d’enregistrement et sentences arbitrales”, *b-Arbitra*, 2013, p. 275
- “Les mesures de redressement bancaire”, in *20 ans de Loi bancaire (Cahiers AEDBF, Intersentia, 2013)*, p. 99
- “Le nouveau règlement d’arbitrage de la CCI : observations de droit belge”, *R.D.C.*, 2012, p. 207
- Belgian chapter in Graham McBain, ed., *Aircraft Liens and Detention Rights*, Sweet & Maxwell, last updated 2011, co-authored with D. Wallace and K. Thibaut
- Belgian chapter in Graham McBain, ed., *Aircraft Finance: Registration, Security and Enforcement*, Sweet & Maxwell, last updated 2011, co-authored with D. Wallace and K. Thibaut
- “Les financements d’acquisitions d’entreprises : descente de dette et assistance financière”, in coll., *La banque dans la vie de l’entreprise*, Ed. du Jeune Barreau de Bruxelles, 2005, p. 259
- “Les emphytéoses, superficies et usufruits sont-ils des actifs bancables ?”, *Rec. gén. enr. not.*, 2004, p. 433
- “Les dérivés de crédit”, in coll., *Produits dérivés*, Cahiers AEDBF, Bruylant, 1999, p. 115
- “Bank Mergers”, in coll., *New Belgian Banking Law*, AEDBF Yearbook 1994, Wiley Chancery, p. 90.
- “Le droit de la concurrence au Japon”, *Rev. dr. int. dr. comp.*, 1985, p. 320
- Multiple publications in the *Clifford Chance client briefing* series, in particular:
- “Belgian short selling ban: stretched far – too far? – by the FSMA”, August 2011
  - “Judicial reorganisation: a new insolvency regime in Belgium since 1 April 2009”, April 2009
  - “Disclosure of major holdings in Belgium: new regime from 1 September 2008”, August 2008
  - “Cap on auditors’ liability in Belgium confirmed by restatement of audit law”, June 2007

“New tax rules facilitate securities custody and paying agency in Belgium”, May 2006

“Capital markets: new Belgian law capping auditors’ liability”, January 2006

“New Belgian tax on fixed income investment funds”, January 2006

“Belgian law on financial collateral”, February 2005

“New Belgian code of conflicts of laws: effects for the banking and securities industries”, July 2004

“Extensive implementation of UCITS III in Belgium”, May 2004

“Belgian withholding tax on interest - new exemptions”, June 2003

“Assignment and pledge of claims - Belgian rules of conflicts of laws”, May 2002