

## **Young EFILA in Conversation with... Stanislava Nedeva**

Dr. Stanislava Nedeva is a Lecturer in Law at Cardiff University, after having previously taught at Reading University. Her main research interests and passion lie in international arbitration (commercial and investment treaty), investment law, energy (oil and gas) and EU. She is also a Young-OGEMID Rapporteur and a member of the R.E.A.L. Newsletter & Blog Team.

Young EFILA sat down with Stanislava to talk about her career, the role of mentorship in academia, and to discuss her newly published book [\*Predictability in Oil and Gas Investment Agreements: Balancing Interests for a Stable Investment Environment\*](#).

### **Young EFILA: What attracted you to a career in academia and specifically in international investment law? What has been your academic journey so far?**

**Stanislava Nedeva:** When I started my undergraduate degree, I did not have a vision of myself as an academic. I was a very studious and diligent student, curious and I always wanted to learn and know more. However, in my initial perception, a ‘Doctor’ was someone with lots of years of practical experience that later brought them to academia where they can ‘give back’ and share their practical knowledge with students. Yet, perhaps less typically to the journey of others, I pursued an LLM and then a PhD degree consecutively and became a ‘Doctor’ already at the age of 26! And this happened naturally – I realised that I enjoy conducting research, understanding the law better and being able to build my arguments. So, one thing (i.e., one degree) led to another.

I was also fortunate enough to be able to apply for and receive merit-based scholarships for both my LLM and PhD, which, given how rare these are in law, was probably a sign that this was the right path for me at the time. My passion for arbitration sparked first when I was a volunteer court official during the preliminary rounds of the International Law Maritime Moot hosted by the University of Exeter, where I was captured by the international and captivating character of this new (to me) dispute resolution method. What attracted me to investment law specifically was its added complexity and the various principles and objectives which govern an investor-state relationship. International investment law is important for the development of new sectors; it enables foreign investors to access resources, whilst it also considers the scope and constraints upon states’ regulatory powers.

### **YE: What role do you think mentorship plays in academia? How can students and young academics best access such mentorship?**

**SN:** Mentorship is vital for an early-career researcher as a good mentor could assist with building knowledge about the profession, help with understanding how to progress, and generally, be someone to look up to. Academia is a challenging profession so finding a good mentor could be very helpful not only in the short time, i.e., to assist with attaining a doctoral degree or meeting probation targets, but it can be a lifetime professional relationship. Personally, I have had brilliant experience when it comes to mentorship. I had a very dedicated and supportive PhD supervisor – Dr. Kyriaki Noussia, who later became a colleague of mine, and I trust (and hope) that she will be a lifetime career mentor for me. For me, it was her work ethic, strict but super supportive approach that convinced me to approach her and discuss her being my primary supervisor. For everyone wishing to do a PhD (and later stay in academia), I think it is very important to find a supervisor (mentor) who is not only an expert in the field, but also a professional who would provide critique when necessary as well as praise and encouragement.

**YE: Regarding your academic career, what are some treasurable and challenging moments you can point to?**

**SN:** For a young (junior) academic, there are three treasurable moments at the start of one's career: successfully passing the *viva voce* exam, starting their first lectureship and the publication of the first monograph. Right now, I am experiencing the third moment with the publication of my first book "*Predictability in Oil and Gas Investment Agreements: Balancing Interests for a Stable Investment Environment*". This is a very exhilarating time for me as it marks a challenging and rewarding journey which began a few years ago with my doctoral studies at University of Exeter, continued with receiving the 'Honourable mention' of the ICC Institute of World Business Law, and culminates with this publication.

As for challenges, being junior means working towards finding your niche and establishing yourself nationally and internationally. This takes time, experience, and a lot of hard work. After all, every beginning is challenging...

I also remember the first time I started teaching, when I was still a doctoral student. At that time, I was not much older than my students, so it was a natural obstacle for me to gain their trust. But what I have enjoyed the most ever since are those 'aha' moments when on a student's confused face 'a light bulb' would suddenly appear to show that they will leave the seminar room with a better understanding of the law.

**YE: You mentioned publishing and the value of a monograph. You have recently published your first book: "Predictability in Oil and Gas Investment Agreements". How would you describe Oil and Gas investment agreements? How do these operate?**

**SN:** Oil and gas investment agreements can have different forms, depending on the extent of obligations they impose on the parties, but at their core they define the legal and business particulars of the parties' contractual rights and obligations – i.e., of the private foreign investor (also referred to as international oil company) and the host state, with the purpose of exploring and exploiting oil and gas on the host state's territory. By nature, oil and gas contracts are very capital intensive, long-term, susceptible to changes of circumstances and vulnerable to economic, political, geological, etc., risks. On the one hand, the private investor will be predominantly interested in the commercial profitability and risk management of the project, as they invest a significant amount of capital in the investment project and bear the initial risks, also known as 'sunk costs.' Investors would be interested in recovering their initial investment as well as in the long-term access to the natural resources through exportation. Hence, they will be looking for contract security and stability of the relationship. On the other hand, the host state – a sovereign body, is interested in the development of its energy industry, technology and expertise, meeting domestic demand and being market competitive. It is mostly focused on maximising return whilst retaining some control over its resources so as to safeguard its public policy and national interests. Therefore, the host state will need a certain degree of flexibility. Hence, these competing objectives can also be looked at from the perspective of two well-known international principles: whilst certainty can be related to the notion of contract sanctity or *pacta sunt servanda*, flexibility is needed as an emanation of state's permanent sovereignty over its natural resources, which is sometimes realised through unilateral state actions of expropriation.

**YE: Tell me more about this objective – what was the driving theme of your PhD and thus, your book?**

**SN:** I recognised that the long duration spanning across several decades, immense initial capital investment, irreversibility of national natural resources, and political, economic and commercial risks make oil and gas agreements susceptible to instability. Therefore, the driving theme of my book has been to argue that a stable investment environment and the continuity of the business relationship can be achieved when the rights of both parties are recognised and balanced. I wanted to focus on the commonalities between the two main parties, rather than their differences. I recognised and analysed key aspects of stability, such as good faith, fair and equitable treatment, stabilisation clauses, adaptation and umbrella clauses, model and signed oil and gas contracts, and relational contracts theory. The book maintains its focus on the instruments and factors which represent the continuity of the business relationship, respect the host state's sovereignty and regulatory powers, and the investor's need for certainty of rights and obligations.

**YE: And how did you find the writing process?**

**SN:** Well, writing a book takes a lot of time, and for me, this was over a three-year project. And when one undertakes a project that requires lots of dedication and commitment, there are inevitably ups and downs along the way. In academia, colleagues refer to these moments as 'going down the rabbit hole.' For the avoidance of doubt and in assistance to any future or current PhD candidates, it is perfectly ordinary to experience these moments more than once. In fact, I imagine writing a monograph as a pathway strewn with many 'rabbit holes.'

I truly enjoyed working on my book and I am very grateful that I can share my thoughts with others. But before I was able to see the final result, there was a lot of time spent researching, reading, writing, and then revising my drafts.

I think writing is an unpredictable process – you may start with one idea which by the end of the process has transformed into something very different or even bigger. There might be days where one is very productive but also others where your brain is just screaming: 'Take a break!' Therefore, we have to be patient and kind to ourselves, taking one step at a time, but always showing perseverance and maintaining focus on our goal. Planning my time has helped me immensely but also the ability to be flexible when needed.

**YE: State-investor contracts are a very hot topic at the moment. How should we think about them? Where do you think they fit in the bigger picture of international investment law and ISDS?**

**SN:** Investor-State contracts remain very significant in the governance of the parties' relationship. They can much better (than BITs or MITs) reflect the parties' objectives, rights and obligations, and respectively bargaining positions, for the relevant investment project. In the context of oil and gas, investor-state contracts can take different forms: concession agreements, production sharing contracts, or risk service agreements are amongst the most popular. And oil and gas contracts can even be perceived as examples of relational contracts. In my book, I refer to stabilisation clauses, specifically economic equilibrium clauses, and third-party adaptation clauses as a reflection of the parties' positions and a means to balance between the rights and obligations of both parties and in so doing, I also examine a number of model and signed contracts. Thus, I believe that investor-state contracts will always be current and preferred by the parties, as they provide for a specific layer of protection, additional to the safeguards found in treaties.

In the future, I expect that stability measures in investor-state contracts will regain their significance. This could be inferred from recent events, such as the war in Ukraine, which has had a prominent impact on the oil and gas sector. Increased oil prices and demand has enabled certain oil companies to increase their profits exponentially, thus leading some states to implement taxation measures on their wealth gains.

In that regard, the role of arbitral tribunals would remain significant as key players in finding the balance between the certainty of the contract that investors need and the flexibility that states pursue.

**YE: What is your best advice for those considering (a switch to) a career in academia?**

**SN:** My advice would be to consider and develop a deep interest in a particular field or topic. Usually, one enters academia by doing a PhD, which requires a specific and original research question. A doctoral degree is (at least) a three-year self-driven, self-managed project which requires a lot of passion and dedication. It is therefore important that you enjoy research and writing, in general and find a topic you are a passionate about, in particular. For the same reason that a doctoral degree is very time consuming and often referred to as equivalent to a full-time job, it is important that one seeks the possibility for funding. Last but definitely not least, consider carefully who you would like your supervisor to be, as this will be the person guiding and supporting you for the next three years.

For those who are already practicing law and willing to teach, there is a growing trend for universities to hire practitioners because through their practical experience they assist very successfully in creating a bridge between academic theory and practical know-how.

**YE: And lastly, to end on a light note: What book or a movie would you recommend to our readers?**

**SN:** One book that I have read last year but has really stayed with me is the *Midnight Library*, a fiction novel opening the door towards all of those ‘what if’ questions that linger in the minds of many of us. I also like to read Bulgarian authors, as this is my native language, and it helps me stay connected.

Instead of a movie, I will recommend two musicals, if I may, as musicals have become one of my new obsessions. I was very impressed by Jamie Lloyd’s production and directorship of *Sunset Boulevard* (which should now transfer to Broadway), as well as *The Lion King* which also exceeded my expectations with its level of artistry and creativity.

**YE: Thank you for your time, Stanislava!**

**\*\*\*\* This interview was conducted by Agata Daszko and forms part of Young EFILA’s Interview Series with Arbitration Practitioners and Specialists \*\*\*\***