

ADR OPENING UP - ARIAS

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The traditional perception of alternative dispute resolution (ADR) as an unknown – and expensive – entity keeps shifting, observes Eduardo Villellas, partner at Arias SLP

"Historically, ADR was seen in Spain as a fairly unknown private method for solving disputes and it was thought that only a few companies could afford them," he states. "This view has changed considerably in the last two decades and a growing number of external counsel and in-house lawyers consider arbitration clauses in their contracts."

The march of ADR in Spain, however, is still largely limited to arbitration, Villellas claims, adding: "Although not necessarily true in all senses, arbitration is perceived as more specialised, expensive and expedite than litigation in Spain."

Large companies involved in cases with high value amounts in dispute have been and still are more likely to embrace ADR, according to Villellas. He stresses that arbitration is expanding to small and medium-sized companies and cases, with energy, engineering, finance and construction being the most common sectors in arbitration.

Even so, clients' biggest concerns in terms of disputes remain largely costs and time. "[The biggest challenges in getting clients to embrace ADR is] helping them understand that litigation is not

necessarily cheaper than arbitration and that a unique instance is sometimes an advantage more than a downside," Villellas explains.

Villellas says his firm will hopefully grow both in the number of cases it handles (as arbitrators and as counsel) and in the number of lawyers. He expects that the number of arbitrations held by consumers against banks will also keep increasing, while other ADR platforms, such as mediation, will take time to develop.

"Spain has a strong litigation tradition and neither lawyers nor clients are yet keen to immediately consider mediation as a way of settling controversies, but hopefully mediation will gain presence in the near future, perhaps as an alternative to some complex and expensive arbitrations," Villellas concludes.