

ENDORISING SPAIN'S ARBITRATION EXPERTISE - INTERNATIONAL CHAMBER OF COMMERCE (ICC)

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Arbitration is the default dispute resolution mechanism for multinational businesses and the role of expert witnesses is taking on ever-greater significance, says Pablo Bernad, Head of KPMG Forensic and EMA Head of KPMG Risk and Compliance.

He has been appointed Vice-Chairman to the International Chamber of Commerce (ICC) Steering Committee for its International Centre for Expertise. A position that recognises not only the importance of expert witness evidence but also the high profile of Spain's arbitration community. "The Committee's aim is to help the ICC appoint the right expert for each dispute based on the specificities of the case and the needs of the tribunal itself, be it industry, financial or accounting expertise" he explains.

It is the rare case in which the ICC is asked to recommend a shared witness to which both sides in a dispute defer but it is common for a Tribunal to request a third opinion, relative to the parties' own

experts, to narrow down the issues or make sense of conflicting views.

For this purpose the ICC has access to a wide range of highly qualified experts based on industry or financial expertise but no two arbitrations are ever the same, he says.

“There is increasing demand for sub-specialisms and it is essential for the expert to have the requisite levels of understanding for complex arguments or very technical details, and to present this in the clearest way possible.”

Experts' evidence must also be credible, which means independence from the parties as well as the Tribunal; a position that reflects also the best practice goals of the Committee, Bernad emphasises.

“Such developments demonstrate the confidence the ICC places in the professionalism of expert witnesses and, I believe, the Spanish arbitration community – many of whom are major players internationally.”