

SPANISH ARBITRATION: AN OUTSIDE PERSPECTIVE - FRORIEP RENGGLI

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From an international arbitration perspective, the last five years have seen a revolution of arbitration in Spain, says Jean-Marie Vulliemin, partner of Switzerland's Froriep Renggli, currently celebrating the 5th anniversary of its office in Madrid.

En los 5 años que la firma suiza Froriep Renggli lleva operando en España, el arbitraje ha sufrido una auténtica revolución, comenta el socio director de la oficina de Madrid, Jean- Marie Vulliemin. Los jueces se muestran favorables al arbitraje, las autoridades dan su apoyo a este sistema y el nivel de los abogados en esta materia se ha incrementado notablemente.

"When we launched in Spain, the new Arbitration Act was just a 4-month newborn.

Arbitration institutions were mainly dealing with domestic matters, and with the exception of a very few well known specialists, Spanish arbitrators were not internationally visible."

The catalyst for much of this change has been the Club Español de Arbitraje (CEA), he believes, which demonstrates what Spain's leading arbitration practitioners and law firms can achieve when they combine their influence in the economic, political, social and educational worlds. "The business approach of these lawyers is demonstrable in the way they say, 'we must, we can, we do, we achieve' and they do!".

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The development has doubtless also been made easier by the increasingly important profile of Spanish companies in fields like telecoms public works and banking and in very competitive markets such as the US, Asia and Latin America. "Moreover, Spanish-speaking countries, notably those in Latin America, are now amongst the greatest 'consumers' of international arbitration, introducing Iberian culture and language within arbitration proceedings," he says.

Five years on, Spain has Courts that support arbitration, local governments promoting arbitration facilities, and institutions adopting modern arbitration rules. Even more impressive, he says, is the outstanding legal education of young lawyers, now perfectly at ease with the particularities of international commercial arbitration. "It is not a mere evolution. It is a revolution."

However, further steps are still needed in terms of transparency of processes and arbitrator lists, of costs, and of the remuneration of arbitrators – to fight a flight towards ad hoc arbitration – and to discourage a desire to create new and different arbitral institutions, he adds, which without experience, visibility or international recognition is clearly counterproductive.

Vulliemin remains therefore of the opinion that Spain's arbitral institutions would do well to adopt a common set of rules for international arbitration in order to offer some uniformity to non-domestic users. "The variety of arbitral institutions and their lack of international visibility is without doubt one of the major problems facing not only Spanish institutions, but Spanish arbitration itself.