

SPANISH ARBITRATION LOOKS TO THE FUTURE - MADRID ARBITRATION COURT

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Madrid's Court hopes to move forwards, with the recent introduction of new initiatives and novel technological solutions, and a two-step strategy to internationalise and become full-service.

Hace ya doce años desde que Miguel Ángel Fernández-Ballesteros se incorporó a la Corte de Arbitraje de Madrid. Ahora, en su función de Presidente, tiene muchos planes para la Corte, con el objetivo de que evolucione dentro de un mercado global y ofrezca una serie de servicios clave para la empresa.

It has been nearly 12 months since Miguel Ángel Fernández-Ballesteros took stewardship of the Madrid Arbitration Court. And he has many plans for the future of the Court.

Fernández-Ballesteros is one of the leading forces in dispute resolution in Spain. He rose to

prominence as a driving force behind Gómez-Acebo & Pombo's top-tier disputes practice in the 1990s and 2000s, where he served as Head of Litigation and Arbitration, before launching his own practice.

He assumed the role as president of the Madrid Court of Arbitration in April 2012, succeeding Miguel Tembory. And while he has been in the post for a little under a year, he is pleased with the direction the Court is moving in.

Fernández-Ballesteros is quick to point out that, when he took over, the Court was already in a "promising position". It had recently undertaken a number of initiatives, such as updating its rules to mirror other international arbitration centres and establishing novel technological solutions, like an online arbitration management platform. Although Fernández-Ballesteros is now looking to the future.

"We are continuing to change and move the Court forward," he says. "In 2012, it heard 150 new cases valued at around €5m, which is a steady improvement on recent years. We have a two-step strategy next; first to internationalise the Court and secondly to make it full-service."

On the first point, Fernández-Ballesteros has made building up global links a priority. He recently finalised international collaborations with organisations in Latin American jurisdictions such as Brazil, Mexico and Peru. He is presently also developing the Court's European network, with a collaboration expected soon in Germany as well as regular dialogue with other seats. It is part of the bid to position Madrid as a centre for international disputes. While the Court is not as established as London or Paris, the hope is to increase this by leveraging off the Euro-Latin America axis.

"Many companies from places like Germany, Poland and Austria have found Latin America a difficult market, but Spain has historic links to both Europe and Latin America," continues Fernández-Ballesteros. "We are trying to promote Madrid as a court that can act as a bridge between Latin American and European parties."

The international push is already having an influence. Fernández-Ballesteros says around 35 percent of 2012 cases were international arbitrations, with 85 percent of the biggest ones involving cross-border disputes. And the trend is set to continue.

To increase the geographical scope, Fernández-Ballesteros is aiming to enhance the scope of services to make the Court 'full-service'. "A priority is to attract more investment arbitration, which is something the big Spanish conglomerates have embraced as they have internationalised their businesses," he stresses.

The Court is presently drafting new rules to govern investment arbitration and has a congress linked up with American contacts in April. The Court is also drawing up dispute resolution rules on a number of other subjects that require more detailed analysis, including the construction and technology sectors, which are booming in Spain, as well as explore the options for mediation.

"We want to contribute to the promotion of arbitration through knowledge and service, to cover all the major issues and trends in dispute resolution," he says. "We would like Madrid to offer arbitration for all topics, whether investment, competition or corporate. We also want to have more foreign arbitrators and more international matters as well as expand our arbitration capacity."

Historically some parties have chosen to pursue arbitration in seats like Paris, London or Geneva. Even so, Fernández-Ballesteros believes that the clear support from the Spanish judges, the evolution of the Spanish rules – like many other jurisdictions inspired by the UNCITRAL Model Law – and the European and Latin American profile will help the Court's development.

"It is ambitious and challenging to want to become a centre for something like investment arbitration, but it is not complicated," he adds. "The fact is that the Spanish Arbitration Law and Court Rules are now very similar to the global standards and there is no reason why we cannot continue to improve our standing."