

A Dispute with a View

Kluwer Arbitration Blog

February 28, 2013

Michael McIlwrath (Baker Hughes GE)

Please refer to this post as: Michael McIlwrath, 'A Dispute with a View', Kluwer Arbitration Blog, February 28 2013, <http://arbitrationblog.kluwerarbitration.com/2013/02/28/a-dispute-with-a-view/>

Construction work at the Florence Chamber of Commerce has forced the city's arbitration and mediation services to relocate to new offices the city was able to scrounge up.

This is the view from the fourth-floor conference room assigned to a mediation I attended yesterday. Talk about coping well in the face of adversity...

Throughout many parts of Europe, municipal chambers of commerce have long helped businesses resolve their disputes. Historically, they have provided arbitration services; more recently, and more frequently, they are adding mediation.

In broad terms, the chambers are structured according to two models, at least in the way there are perceived by parties.

In a country of fierce individualists like Italy, the prevailing model seems to be every city equipped with its own rules and panel of arbitrators and mediators. This approach promotes local commerce by promoting prominent local professionals to resolve their disputes, but at the expense of non-locals who may justifiably fear being pitted against a formidable home-court advantage.

By contrast, the model adopted by the DIS, the German Arbitration Institute, is more disciplined, centralized and, well, let's just say more... German.

The DIS provides the arbitration and mediation services for over a dozen municipal chambers of commerce of many large cities in Germany. It makes no difference, for example, if a party files a claim with the Frankfurt Chamber of Commerce or the Stuttgart Chamber. In both cases, the DIS will receive the request for arbitration and administer the proceedings.

The DIS model may sacrifice the interests of local professionals who would benefit from locally-made appointments, but it has the advantage of making the resolution process appear more neutral, consistent, and reliable in the eyes of those who hail from outside the city's walls.

Given the growth in the DIS's caseload over the last several years, it is also a successful model and the source of international ambitions. This much was confirmed last year when the DIS recruited Francesca Mazza, formerly a senior manager of the ICC, as the institution's new secretary general.

In Italy, I am proud to say that my adopted home of Florence has embraced a similarly cooperative approach to international arbitration and mediation, bucking the national trend of fragmented individualism. The Florence Chamber has signed a pact with its northernly sister, the Milan Chamber of Commerce's Court of Arbitration, one of the leaders in dispute resolution services in this part of Europe.

Under the cooperation agreement between the chambers, if a foreign party files an arbitration or a request for mediation with the Florence chamber, the rules applied to the dispute will be those of the Milan organization, which will also co-administer the proceedings.

It's not surprising that Florence would be among the first of Italian cities to accept that surrendering local control is a path to becoming more attractive to foreign parties. After all, this is a city whose grandeur was built on the economic force of trade guilds dependent upon the power of cooperation and reciprocity, centuries before reliable judicial systems came into existence.

Perhaps Florence can now hope to add international dispute resolution to the list of reasons that so many choose to visit the city each year. And why not? While the DIS may be ahead in achieving broad multi-city cooperation and building an international reputation, there is one thing they do not have...

....our views.