

Kluwer Arbitration Blog

Interviews with Our Editors: Perspectives on Alternative Dispute Resolution from Karima Sauma, Executive Director of CICA – AmCham Costa Rica

Enrique Jaramillo (Locke Lord LLP) and Kiran Nasir Gore (Associate Editor) (The George Washington University Law School) · Sunday, June 30th, 2019

*Welcome to the Kluwer Arbitration Blog, Ms. Sauma! We are grateful for this opportunity to learn more about the **International Center for Conciliation and Arbitration** (“CICA” for its initials in Spanish), which is celebrating its twentieth anniversary this year (congratulations!), as well as about the dynamic alternative dispute resolution environment of Costa Rica.*

Thank you for this opportunity! I am delighted to be able to contribute to the Kluwer Arbitration Blog.

1. To start, can you briefly introduce yourself and explain your role at CICA?

I am the Executive Director of CICA, based in San José, Costa Rica. I oversee all the Center’s activities, including our case-management services and academic and educational efforts. I am also an adjunct professor at ULACIT University in San José, and the academic director of the “*Especialización en Arbitraje CICA-ULACIT*”.

Previously, I worked as an Advisor with the Dispute Settlement Team of the Costa Rican Ministry of Foreign Trade, where I was part of Costa Rica’s defense team in claims filed under various treaties and free trade agreements. Prior to joining the Ministry of Foreign Trade, I worked with the international arbitration group at a large international firm in Washington, DC.

*2. We understand that CICA is affiliated to, but independent of the **Costa Rican-American Chamber of Commerce** (“AmCham Costa Rica”). How does this relationship enhance CICA’s ability to educate the arbitration community, and also to serve international and domestic users of your dispute resolution services?*

CICA’s relationship with AmCham provides us with the institutional support of a solid, well-respected and long-standing organization, but at the same time, allows us to operate independently to preserve the core principles that guide arbitration. Being a part of AmCham enhances our ability

to reach domestic and international users who are Chamber members and need our dispute resolution services (however, you do not need to be a Chamber member to be able to use our services).

It is also the ideal platform to educate a wider audience about alternative dispute resolution (ADR), liaise with the government and other institutions that share our mission, and look for more creative ways to provide our services. It also helps us understand better the needs of our users and allows us to deliver more tailored solutions. More importantly, it ties us to a wider network of AmChams, which has helped us in our regional appeal.

3. *Can you tell us more about your users and their disputes? What kinds of parties do you usually serve, and are there particular industries or types of disputes prevalent among them? How does CICA rely upon this information to enhance its services and approach?*

The types of parties and disputes that are brought before CICA are very diverse, which is one of the great advantages of working in arbitration. Currently, the most popular issues involve construction disputes, real estate agreements, and bank loans, but the industries and topics are usually wide-ranging.

The case-load and topics are generally a reflection of the economic state of the country and the region, so it is important for us to be aware of what is going on in order to provide services that respond to our users' needs at a particular juncture. In addition to our case-management services, we have focused on expanding our academic efforts, which include conferences and workshops that promote the use of alternative dispute resolution.

We have also seen an increase in international arbitrations that involve companies with a regional presence in Central America, so we are working to strengthen our capabilities in the region.

4. *In 2011, Costa Rica adopted its Law for International Arbitration (based on the 2006 UNCITRAL Model Law and available in English [here](#)). How has this development impacted CICA's workload?*

The adoption of this Law marked a turning point for arbitration in Costa Rica because it allowed us to finally manage international cases. Since then, Costa Rica has strived to become a hub for international arbitration. CICA has been at the forefront of this process, and leads the way in terms of international cases in Costa Rica. The adoption of this law also meant the need to modify certain aspects of the arbitration process that were rooted in domestic judicial proceedings. To this end, CICA, alongside leading local university ULACIT, created the first and only postgraduate degree in Costa Rica that includes courses on international arbitration. These education efforts are crucial, as they help train professionals to be better equipped at handling the increasing workload of international cases.

Additionally, CICA will unveil later this year our new Arbitration Rules, which represent a notable effort in making our processes more international.

5. *Aside from the leading international arbitral institutions, recent years have seen the emergence of many more regional ADR centers. From your perspective, what are the advantages to using a regionally-based ADR center for dispute resolution? How does CICA stand out among its peers in Latin America?*

There are many advantages to using a regionally-based ADR center for dispute resolution. On the one hand, CICA provides first-rate dispute resolution services at a fraction of the cost of the leading international arbitral institutions. This means that we offer high-quality work, with equally high standards, but because we are located in Costa Rica we can offer more competitive rates.

We are also more adept at dealing with the local and cultural aspects of the region, which translates into more efficient and effective processes.

Additionally, we offer a wider selection of arbitrators that have more experience in the region, and whose professional qualifications can make them better suited to hear the dispute at hand.

On the other hand, Costa Rica is a great seat for arbitrations:

- It has a long tradition of upholding the rule of law, including solid laws that regulate domestic and international arbitrations.
- Notably, it adopted the 2006 UNCITRAL Model Law to regulate its international arbitrations and is also a member of the New York Convention.
- Local courts are very respectful of arbitration awards, and generally defer to the decisions of the arbitral tribunals.
- It is a long-standing and peaceful democracy, known for its political, social and economic stability.
- It has a very professional workforce, with plenty of experience in alternative dispute resolution.
- It is geographically privileged, and easily accessible from all the major airports in the world.

6. *During the past decade we have seen a number of developments in Latin American arbitration – including an increasing aversion by some countries in the region to investment arbitration. How have these trends impacted Costa Rica generally, and CICA more specifically?*

Costa Rica has a strong tradition of creating and upholding public policies that promote foreign investment. This includes the subscription of numerous international investment agreements that contain ISDS provisions. In fact, Costa Rica has faced 11 investor-State arbitrations – one of the highest numbers in Central America – which have, in turn, shed a spotlight on ISDS in the country. However, Costa Rica's experience with these cases has generally been a positive one.

The fact that Costa Rica has had positive outcomes has assisted in limiting some of the backlash that other countries have faced regarding ISDS. However, investment arbitration cases are frequently reported on, albeit incorrectly, because they involve the government and public policies. This has resulted in the dissemination of a lot of misinformation relating to arbitration. CICA's mission has been to counter this misinformation through publications, events and workshops that promote the use of alternative dispute resolution and educate with correct information. Additionally, CICA has sought to improve the media's understanding of arbitration in order to have more accurate reporting.

7. Earlier this year, CICA and Arbitrator Intelligence signed a *historic agreement* through which CICA became the first Latin American arbitral institution that will use the Arbitrator Intelligence Questionnaire (AIQ) to promote diversity, accountability, and transparency in international commercial arbitration. Can you tell us more about this initiative and how it will support CICA's core goals?

This is a wonderful initiative that highlights some of the most important efforts that we are currently pursuing. The quality of the decision-makers is paramount to the successful resolution of any case, which is why one of our permanent concerns is to have the best arbitrators possible. The AIQs will assist us in the selection of arbitrators with verifiable data, but will also promote the inclusion of new, more diverse arbitrators, by shedding light on appointments that would otherwise go unnoticed.

At CICA we hope that using tools like the AIQ will help answer some of the users of dispute resolution services' questions related to issues of accountability, transparency and diversity in international arbitration. We hope that this movement continues to spread to other institutions so that we can truly improve these aspects of international arbitration in a global way.

I am also currently involved with the Equal Representation in Arbitration Pledge and Young ITA (Institute for Transnational Arbitration), which are two organizations that are doing a lot for diversity and the inclusion of younger generations in arbitration. All these initiatives combined will hopefully lead us to real, lasting and positive change.

8. How has CICA sought to celebrate its twentieth anniversary, and what is your vision for CICA during the next twenty years to come?

This year, we are celebrating twenty years of spearheading an ADR movement in Costa Rica and the region. We are proud of leading the way for a more peaceful and amicable way of solving conflicts and hope to continue doing so for many years to come.

Our vision for CICA for the next twenty years involves improving our services, expanding our reach, and liaising with the government and other institutions that share our mission. Specifically, regarding our case-management services, we will continue to incorporate the latest technology to improve the way that we carry out arbitration and mediation processes. Technology will continue to disrupt the way that we currently do things, and ADR is no exception. However, we look at this as an opportunity to become more creative, more efficient, and to develop new and more customizable ways of solving conflicts. Additionally, technology will enable us to expand further and reach more users from different backgrounds and geographical locations.

Additionally, we look to improve existing services by implementing new rules of arbitration (coming out later this year), diversifying our roster of arbitrators, and using more data-driven tools to create better services.

The future also requires that we develop different skillsets in response to changing times, and CICA is playing an important role in promoting and training a new generation of professionals in alternative ways of resolving conflicts and promoting peace. This includes a focus on negotiation

and communication tools, as well as other creative ways of handling conflict. We are also working together with the government to develop different programs directed at public officials that will help with this mission. In the years to come, we seek to strengthen our position as an ally in the development of public policies that concern conflict resolution, justice and peace.

I can definitely say that from our point of view, the future looks busy and exciting!

Thank you for this opportunity. We wish continued success to both you and CICA!

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