

Kluwer Arbitration Blog

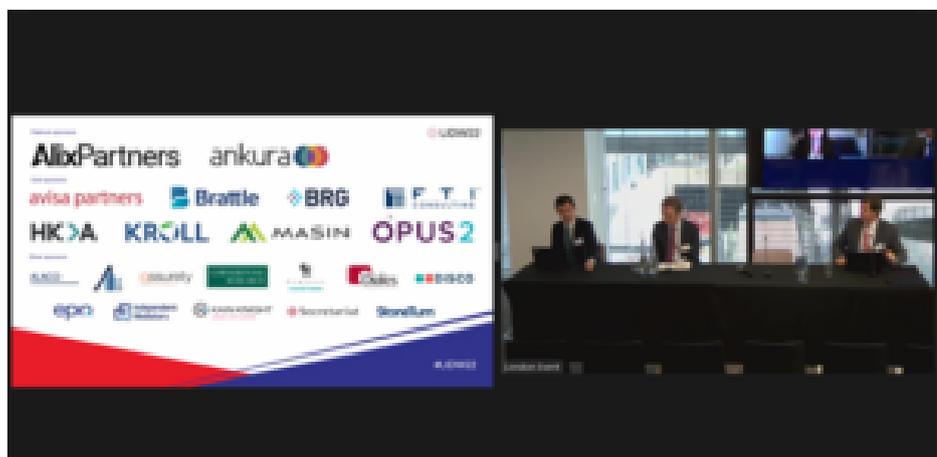
LIDW 2022: Latin America – Delivering Sustainable and Ethical Infrastructure Across Key Sectors – A Disputes Perspective

Andres Mazuera (Queen Mary University) · Wednesday, May 11th, 2022

On the first day of the 2022 London International Disputes Week, Herbert Smith Freehills, HFW, HKA, King & Spalding, and Twenty Essex organised a panel on “Latin America: delivering sustainable and ethical infrastructure across key sectors – a disputes perspective”. The panel was composed of [Richard Caldwell](#) (Brattle), [Dr Francisco González De Cossío](#) (Gonzales de Cossio Abogados, S.C), [Manuel Casas](#) (Twenty Essex), [Jose Ricardo Feris](#) (Squire Patton Boggs), [Cristina Ferraro](#) (Miranda & Amado), [Erica Franzetti](#) (King & Spalding), [Felipe Ossa](#) (Claro & Cia), [Daniela Paez](#), (Herbert Smith Freehills). The moderators were [Chris Cardona](#) (HFW) and [Michael Laming](#) (HKA).

The winds of change in Latin America: has the region become riskier for foreign investments?

The first part of the conference focused on the recent political instability in Latin America. Felipe Ossa highlighted the uncertainties raised by the Chilean Constitutional Convention, which is currently drafting a new constitution. The Constitutional Convention has approved a number of provisions that may pose significant risks to foreign investment, including [amendments to the mining regulatory framework and natural resources concessions](#). However, some polls suggest that the new constitution will not be ratified in the referendum scheduled for next September. This could prompt further political unrest and cast doubts over the country’s future stability.



Cristina Ferraro expressed [concerns over the institutional stability in Peru](#) and how it has disrupted several important investment projects in the country, particularly in the energy sector. Likewise, Francisco González discussed the [reforms to energy regulations](#) that the government of Andrés Manuel López Obrador has tried to implement in México. According to him, the new measures have had negative impacts on the country's clean energy market and have discouraged investments in the industry.

Richard Caldwell addressed the economic implications of the changes in the various Latin American jurisdictions. From the perspective of damages calculation, this regional uncertainty produces valuation discounts because the risks are higher. However, he insisted that the actual impact may vary between economic sectors since some markets, such as exports, might be able to navigate in a better way the current political landscape.

In general, the panel agreed that Latin America is currently undergoing turbulent times and political instability. From an investor's perspective, the region has become riskier as there are newly elected governments vowing to amend the constitutional framework.

How could London be more attractive for Latin American disputes?

The second part of the conference focused on the question of whether London is the next Latin American dispute hotspot.

The panel discussed how London is perceived internationally and whether there is room for improvement when looking at attracting Latin American disputes.

Daniela Paez and Erica Franzetti acknowledged that London is perceived as a very strong arbitration hub, with a sophisticated arbitration framework, competent practitioners, and a solid judiciary well-versed in international arbitration.

Be that as it may, Jose Ricardo Feris argued that London is not regarded as the leading jurisdiction for Latin American disputes. He claimed that Paris had done better work in attracting disputes from the region thanks to the efforts of the ICC, which has established a presence in Latin America over the last years. In that regard, arbitration institutions such as the LCIA could benefit from engaging in the region.

Manuel Casas agreed that London needs to promote itself in order to be closer to Latin America. However, it underscored that some steps had been taken in that direction. For instance, the Law Society has been marketing English law in the region, and a number of London-based law firms have been establishing offices or partnerships in Latin America.

Erica Franzetti considered that even though London continues to be a big arbitration hub worldwide, Miami and Sao Paulo remain more natural forums to resolve Latin American disputes due to their proximity to the region and their common background between them. This idea is in line with the [2021 International Arbitration Survey](#), which found that London was not a top pick for survey respondents based in the Caribbean/Latin America.

The panel concluded that London, as a potential hub for disputes, offers sophistication, predictability, and expertise in international arbitration. However, London faces strong competition from very strong seats in the US and Paris regarding Latin American disputes. Therefore, London

arbitration institutions require a more aggressive campaign to promote the seat and English law if they want to grow in the Latin American market.

More coverage from LIDW is available [here](#).

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The graphic features a black background with white text and a circular icon. The icon depicts a group of stylized human figures, with one figure in the center being magnified by a magnifying glass. The background is accented with horizontal lines in blue and green.

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