

# Kluwer Arbitration Blog

## Interviews with Our Editors: In Conversation with Gustavo Piedrahita, Center of Arbitration and Conciliation of the Chamber of Commerce of Bogota, Colombia

Daniela Páez-Salgado (Senior Assistant Editor) (Herbert Smith Freehills) and Fabian Zetina (Assistant Editor for South and Central America) (BakerHostetler) · Tuesday, June 20th, 2023

*Gustavo Piedrahita is an attorney with more than 15 years of professional experience. He received his law degree (LLB) from Universidad de la Sabana in Colombia and has a master's degree in corporate law from Universidad Sergio Arboleda. He is a specialist in commercial, financial, and environmental law. Mr. Piedrahita acts as a domestic and international arbitrator and has extensive experience advising companies in compliance matters, national and international contracting, commercial law, intellectual property, insurance, administrative and litigation.*

1. *Mr. Piedrahita, thank you for joining us on the Kluwer Arbitration Blog! We are thrilled to have this opportunity to share with our readers your story and perspectives. Piedrahita, can you briefly introduce yourself and explain your role at the Center of Arbitration and Conciliation of the Chamber of Commerce of Bogota, Colombia (“CCB”)? What attracted you to taking up a leadership position at CCB?*



I am a lawyer admitted to practice law in Colombia, with teaching experience in various universities in the country. I have been working at the Bogota Chamber of Commerce (“CCB”) for more than ten years. In 2019, I became the Deputy Director of the Arbitration and Conciliation Center (“Arbitration Center”) and in September 2021 I was appointed Director of the Arbitration Center. My role as Director involves the administration of domestic and international arbitration proceedings, dealing with the day-to-day operation of the Arbitration Center, organization of academic events hosted by the Arbitration Center as well as the projects and initiatives the Arbitration Center has put

together for the promotion of arbitration in Colombia. I am attracted to challenges, but above all, to

promoting the resolution of disputes through fast and efficient mechanisms that are widely available to all citizens.

**2. *The CCB was created in 1983, so this year marks its 40th anniversary. What have been some highlights of CCB? What are the lessons learned?***

CCB has existed for more than 145 years and the Arbitration Center just marked its 40th anniversary.

The CCB is the most important Chamber of Commerce in Colombia. It administers efficient and thoroughly modern proceedings for the registry of all merchants in Colombia. The Arbitration Center is the most important center in Bogota and has a great presence and reputation in Latin America.

We have learned many lessons through the years. Every day we strive to provide excellent services. This is evidenced through the many initiatives that we have implemented over the years such as specialized mechanisms in corporate disputes, summary proceedings to make the resolution of disputes more efficient, and the HERMES program.

**3. *The CCB arbitration rules were modified in 2022. What are some of the new features? What are the main differences between these rules and the rules issued by other institutions in Colombia and in the region?***

The Arbitration Center currently has two sets of Arbitration Rules in place, one for domestic arbitrations and another for international arbitration proceedings. In 2022, the Arbitration Center made some improvements to its [General Arbitration Rules](#) (“Rules”) to make them more aligned with international standards, specifically with respect to international arbitration proceedings. The Arbitration Center is always on the lookout to make improvements to its Rules, create new mechanisms that allow them to be more efficient and competitive. This is the main difference with other institutions not only in Colombia but in the region.

Before these changes, in international arbitrations, the appointment of arbitrators was conducted through a lottery taken from the lists of arbitrators of the Arbitration Center (as it is done in domestic arbitrations). Now, the Rules allow the parties to designate the arbitrators of their choice, or to design their own specific appointment procedure.

Additionally, these changes now provide for a summary arbitration procedure to give the parties the possibility to conduct even faster, and more efficient proceedings based on the specific circumstances of their dispute. The purpose of this change is to make arbitration proceedings not only more efficient, but more available to small and midsize businesses and to “demystify” the belief that arbitration is only designed for big corporate disputes.

**4. *We understand that CCB has recently launched an initiative to resolve corporate disputes. Could you tell us more about it?***

The Arbitration Center launched, in August 2022, an initiative to create specialized mechanisms for resolving corporate disputes. Before this, more than 80% of the disputes administered by the Arbitration Center were already corporate and commercial disputes. A big portion of that percentage was shareholders' disputes. In Colombia, it is usual for shareholders and partners in business entities to agree to arbitrate their disputes by including arbitration clauses in by-laws or articles of incorporation. The Arbitration Center saw an opportunity in allowing private resolution spaces without the need to resolve them in courts. For example, this is a tremendous benefit for entrepreneurs.

The main feature of this initiative is the creation of a specialized list of approximately 30 arbitrators highly specialized in corporate disputes and business associations. The Arbitration Center made a great effort to consolidate a list with the "best of the best" in corporate disputes. After registering a request for arbitration, the dispute is categorized as "corporate dispute," and the list of arbitrators is offered to the parties. In addition, the implementation of a summary proceeding is another essential component of this initiative. The delays in the judicial system are high and therefore, arbitration becomes an excellent alternative.

#### *5. Apart from the administration of arbitrations, what other services does CCB offer?*

In addition to the administration of arbitration proceedings, the Arbitration Center administers conciliation proceedings, mediation, and provides assistance to individuals and businesses in insolvency cases.

The Arbitration Center also uses its expertise in resolving disputes in school programs, such as the "HERMES" program, that seeks to prevent bullying and cyberbullying in young kids and teenagers. Conflicts at young ages can have a severe impact on the life of an individual. This program aims to teach and provide tools to kids and teenagers to resolve their disputes through peaceful means. The program focuses on public schools (400 approximately) where instructors from the Arbitration Center teach the students how to mediate disputes using a specific methodology. We have also started to invite parents to these courses, given that during the pandemic this problem became an issue at home, where the families were together 24/7.

The Arbitration Center also focuses heavily on analyzing information obtained through the administration of the disputes. We created an internal department called "Knowledge Management" (*Gestión del Conocimiento*), which is in charge of collecting and processing this information for internal and public purposes. The Arbitration Center runs on a principle of "open data", except, of course, for the confidential information from the proceedings, which is taken with great care. We have prepared and published three digital magazines and several articles. We also have a publication that discusses the dynamics of the proceedings, statistics on the number of proceedings, industry, etc. All this information helps the Center to make strategic decisions to improve its services.

#### *6. What initiatives does CCB undertake in order to promote the use of arbitration in Colombia and in the region? Are there any such initiatives targeted for young practitioners?*

Through our young practitioners' network program (*Red Juvenil de Arbitraje*) launched in 2019,

our goal is to bring arbitration to all regions and all sectors of the country. In our view, arbitration is not a mechanism available only to big corporations, but also to micro and small companies and to the common citizen. For this reason, we seek to connect universities, entrepreneurs and society in general to promote arbitration as a preferred dispute resolution mechanism. The only requirement to join our network is to have a law degree and be younger than 40. Last month, we held the fourth edition of the network's congress where young practitioners were able to participate as speakers, discussing current issues involving arbitration in Colombia. Connected to this project is a career placement center which seeks to assist all interested participants to access the world and practice of arbitration.

Another initiative from the center is a program called "Arbitration for Colombia" (*Arbitraje por Colombia*) which seeks to expand the use of arbitration to people of low-income recourses. For instance, we have worked with legal clinics at law schools whose students have represented low-income clients in small claims disputes for free. The idea is for small claims disputes (such as breach of contract, failure to pay a promissory note, etc.) to be resolved in arbitration rather than courts – with the benefit of an expedited resolution.

**7. *Regarding the CCB's users and disputes, what kind of parties do you usually see in the arbitrations and from which industries? And in this context, what percentage of your arbitrations relate to international disputes?***

The disputes our Center resolves are not focused on a specific sector. We have administered disputes in the hydrocarbons, construction (including disputes relating to public works) and technology sectors. In fact, our experience has shown that, although there are some sectors that use arbitration to a greater extent, arbitration is a mechanism for small companies as well. With respect to our international arbitration cases, they have been growing since 2014, with disputes being filed from parties based in all continents of the world. Bogota is a safe place not only to do business, but also to resolve conflicts.

**8. *In your experience, do you consider that courts in Colombia are supportive of arbitration?***

I believe that in Colombia, arbitration finds a peaceful and friendly environment that coexists with the judicial system. It is understood that arbitration and arbitrators complement the Judiciary's function and can help ease court congestion – rather than being perceived as a competitor of judicial adjudication. If anything, courts may be perceived as being more careful when it comes to expanding the use of arbitration to broader subject matters. For instance, a recent initiative on arbitration of tax disputes was rejected by the Council of State in Colombia.

Furthermore, the percentage of awards that are annulled in courts is very low (around 3%) and would normally take place where courts have found violations of due process rights of the parties. But in general, courts are respectful of arbitration and the arbitrators' decisions.

**9. *As a new administration just took office in 2022, has Colombia seen any measures that have impacted the arbitration landscape in Colombia? Do you see any changes coming?***

No, we are working together with the new administration as we have done with previous administrations to strengthen arbitration and dispute resolution mechanisms as judicial relief mechanisms promoting and generating legal certainty. We are conscious that some changes are coming up and initiatives are different from past governments. However, to date, the Colombian State has been respectful of arbitration. We have had contact with several governmental agencies to discuss arbitration related matters and the officers have been very open and have defended ADR methods.

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