LATIN LAWYER REFERENCE ARBITRATION 2021

Ecuador

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Legislation

1. Which legislation governs the enforcement of international commercial arbitration awards and arbitral agreements in international business contracts, and international commercial arbitration proceedings?

The Arbitration and Mediation Law, the New York Convention and the Panama Convention. According to the Arbitration and Mediation Law, an arbitration will be considered international when the parties have expressly agreed to it and any of the following conditions are met: (i) if parties have their domiciles in different states at the time they agree to arbitration; (ii) when the place of substantial performance of obligations or the place to which the arbitration has its closest relation, is located in a state different from the one where any of the parties are domiciled; and (iii) when arbitration is related to an international commercial operation, subject to transaction and does not affect or injure national or collective interests.

The enforcement of international awards is governed by article 42 of the Arbitration and Mediation Law.

2. Has the UNCITRAL model arbitration law been adopted in your jurisdiction?

The Arbitration and Mediation Law is modelled on the UNCITRAL Model Arbitration Law. It has adopted several of its dispositions, but it has also departed in some areas (eg, mandatory bifurcation of proceedings, opt-in confidentiality, grounds for challenge the impartiality and independence of arbitrators, default ex aequo et bono arbitration, grounds for annulment).

Conventions

3. Is your jurisdiction a party to both the New York Convention and the Panama Convention? Is it a party to any other conventions or treaties governing international commercial arbitration agreements, awards or proceedings?

Yes, Ecuador is a party to both the New York Convention and the Panama Convention. It is also a party to the Montevideo Convention.

4. Is your jurisdiction a party to the ICSID Convention? Have steps been taken to renounce the Convention or withdraw from ICSID?

Ecuador denounced the ICSID Convention in 2009.

5. Is your jurisdiction a party to other conventions that directly affect the enforceability of arbitration agreements, rights or awards?

None.

Commercial arbitral agreements and arbitrability

6. Some jurisdictions have permitted parties to compel resolution of a dispute by means of arbitration only if the agreement to arbitrate was entered into after a dispute has arisen. Is a pre-dispute arbitration clause to resolve international commercial disputes by arbitration enforceable?

Pursuant to article 6 of the Arbitration and Mediation Law, a pre-dispute arbitration clause to resolve international commercial disputes by arbitration and an arbitration clause contained in a separate agreement to resolve international commercial disputes arising under some other commercial agreement are fully enforceable. There is no need for a post-dispute compromise.

7. What are the requirements for an enforceable arbitral agreement?

Article 5 of the Arbitration and Mediation Law provides that, in order to be enforceable, an arbitral agreement shall be in writing. If the agreement is not written in the contract but in a separate document, the name of the parties and the transaction or contract covered by the agreement shall be determined. When the dispute involves civil indemnities for tort, the arbitration agreement must refer to the facts with which the arbitration will deal.

8. Is there subject matter that is not legally subject to arbitration in the context of an international business transaction?

Yes, according to article 190 of the Ecuadorian Constitution and article 1 of the Arbitration and Mediation Law, only matters that can be subject to compromise may be submitted to arbitration.

9. Are there any limits to the ability of a state or an instrumentality of the state to enter into an agreement to arbitrate in your jurisdiction? If so, under what circumstances may the state or its instrumentalities enter into such an agreement? Please describe the requirements that must be met for the state to enter into a binding arbitration agreement.

Pursuant to article 4 of the Arbitration and Mediation Law, for an instrumentality of the state to enter into an arbitration agreement in public procurement the following conditions should be met: (i) the matter referred to by the arbitration agreement shall be of a contractual nature; (ii) the arbitration agreement shall provide the mechanism for the appointment of the arbitrators; and (iii) the arbitral agreement shall be signed by the legal representative of the instrumentality.

Additionally, as per article 190 of the Ecuadorian Constitution and article 4(b) of the Arbitration and Mediation Law referred therein, a prior authorisation from the Attorney General of Ecuador is required for an instrumentality of the state to enter into an arbitration agreement when the dispute has already arisen.

10. Does the law specify whether an arbitration will be in equity or under law if the parties do not expressly specify the nature of the arbitration in the agreement?

Yes, if parties do not specify whether arbitration will be in equity or under law, article 3 of the Arbitration and Mediation Law provides that it will be in equity.

11. How does the law limit party autonomy with respect to the terms of an arbitral agreement?

Pursuant to article 38 of the Arbitration and Mediation Law, party autonomy is complete granted to set all the terms of the arbitral agreement and rules that will govern the arbitral procedure. The Arbitration and Mediation Law does not have any limitation regarding the designation of arbitrators; the selection of an arbitral institution or the seat or the arbitration. However, the law regulates all these matters in case, the arbitral agreement or the parties were silent about them.

12. Under what circumstances does the law allow a non-signatory to an arbitral agreement to pursue a claim in an international arbitration against a party that signed the arbitral agreement?

The Arbitration and Mediation Law is silent on this matter, nevertheless, scholars and case law has proposed that the arbitral agreement shall extend to those whose consent to arbitrate, according to good faith, can be determined by their active participation and in a determining manner in the negotiation, execution, performance or termination of the contract containing the arbitral agreement or to which the agreement is connected.

13. Under what circumstances does the law allow a signatory to an arbitral agreement to pursue a claim in an international arbitration against a party that did not sign the arbitral agreement?

The Arbitration and Mediation Law is silent on this matter, nevertheless, scholars and case law have proposed that the arbitral agreement shall extend to those whose consent to arbitrate, according to good faith, can be determined by their active participation and in a determining manner in the negotiation, execution, performance or termination of the contract containing the arbitral agreement or to which the agreement is connected.

14. Under what circumstances may a non-signatory to an arbitral agreement compel arbitration of a claim asserted against it in a court of law by a signatory of the arbitral agreement?

The Arbitration and Mediation Law is silent on this matter, nevertheless, scholars and case law has proposed that the arbitral agreement shall extend to those whose consent to arbitrate, according to good faith, can be determined by their active participation and in a determining manner in the negotiation, execution, performance or termination of the contract containing the arbitral agreement or to which the agreement is connected.

15. Is there any law in your jurisdiction specifically governing the arbitrability of consumer or labour disputes?

According to article 43 (4) of the Organic Law for Consumer Defence, consumer disputes can be submitted to arbitration provided that the consumer has expressly consented to this.

There is no a specific regulation governing the arbitrability of labour disputes. However, as mentioned, according to article 1 of the Arbitration and Mediation Law, only matters that can be subject to compromise may be submitted to arbitration.

16. Does your jurisdiction provide for class-action arbitration or group arbitration? If so, are there any limitations to the arbitrability of such claims or requirements that must be met before such claims may be arbitrated?

No, there are no provisions allowing class-action arbitrations or group arbitrations.

17. Are contractual waivers precluding arbitration of claims on a class-wide basis enforceable? Under what circumstances have such waivers been upheld or set aside by the courts?

There are no contractual waivers precluding arbitration of claims on a class-wide basis.

18. If the parties' contract is silent on the issue of class-action arbitration, is class-action arbitration allowed under the law of your jurisdiction?

As mentioned before, class-action arbitrations are not regulated under Ecuadorian law.

19. Are foreign arbitral institutions without a physical presence in your jurisdiction authorised to administer arbitrations in your jurisdiction? Does the law require that a foreign institution be licensed under local law to administer an arbitration seated there?

There are no provisions requiring a foreign institution to be licensed under local law in order to administer an arbitration seated in Ecuador. Furthermore, pursuant to article 41 of the Arbitration and Mediation Law, parties are free to choose the institutional rules that will govern their international arbitration.

Arbitral institutions and arbitrators

20. Is an arbitral award issued in an arbitration seated in your jurisdiction under the auspices of a foreign institution (such as the ICC, ICDR, LCIA or similar institutions) vulnerable to challenge because it was issued under the auspices of a foreign institution?

No. The grounds for an award to be challenged do not refer to the entity that administers the arbitration.

21. Does the law require that arbitrators in international arbitrations be nationals or residents of your jurisdiction?

No, the Arbitration and Mediation Law does not require that arbitrators in international arbitrations be nationals or residents of Ecuador.

22. Does your law require that arbitrators in international cases be lawyers?

Pursuant to article 3 of the Arbitration and Mediation Law, if the award is to be issued under the law, then the arbitrators must be lawyers. Nonetheless, they are not required to be admitted to practise in Ecuador.

23. Does your jurisdiction provide immunity from civil lawsuit to arbitrators serving in an arbitration with its legal seat in your jurisdiction? Under what circumstances does such immunity apply or not apply?

The Arbitration and Mediation Law does not grant arbitrators with immunity from civil lawsuits. Per article 18 of the Arbitration and Mediation Law, arbitrators are liable for a negligent breach of their mandate. However, there is no limitation for parties to grant immunity to arbitrators or to modify the arbitrator's standards of liability.

24. Are the fees of foreign arbitrators serving in an arbitration seated in your jurisdiction subject to taxation?

Yes, arbitrators' fees are subject to income tax, VAT and the currency outflow tax.

25. Must arbitrators in international arbitrations be independent and impartial? What is the legal standard governing conflicts of interest and disclosure by arbitrators in international arbitrations?

According to article 76(7)(k) of the Ecuadorian Constitution, "to be judged by an independent, impartial and competent judge" is a substantial part of due process and therefore is applicable to arbitration. For this reason, article 19 of the Arbitration and Mediation Law compels the arbitrator to reveal any reasons that might disqualify him or her from performing his or her functions owing to absence of such qualities. In addition, article 22 of the Organic Code of General Procedures sets forth the grounds for excuse and challenge of both, judges and arbitrators.

26. Will courts entertain requests to disqualify an arbitrator before the conclusion of an award?

No, according to article 21 of the Arbitration and Mediation Law, courts do not have jurisdiction to decide on a request to disqualify an arbitrator. Pursuant to the same article, a request to disqualify an arbitrator will be decided by the arbitrators not comprised by the challenge, and in the case of a sole arbitrator or when the entire tribunal is challenged, in the case of institutional arbitration, the request to disqualify will be resolved by the director of the centre, and in case of ad hoc arbitration, by the director of the closest centre of arbitration.

Arbitral proceedings

27. Discuss the public perception of the reliability of arbitration as a dispute resolution method in your jurisdiction.

Public perception regarding the reliability of arbitration is positive. Generally, in commercial transactions, people tend to prefer arbitration over court litigation. This is evidenced in the continuous growth of cases and academic interest in the field. The arbitral community has also grown and it has, in recent years, experienced an internationalisation if its practices, adopting international standards such as the IBA rules or guidelines.

28. Does the law require that arbitral proceedings seated in your jurisdiction be held in a specific language?

No, international arbitrations can be conducted in any language. In domestic proceedings, an arbitration has to be conducted in Spanish, however, parties may agree that, alongside with Spanish, the arbitration could be conducted in another language as well.

29. Can foreign lawyers serve as advocates in arbitral proceedings in your jurisdiction? If so, can they do so alone or must a local lawyer serve as co-counsel?

Yes, foreign lawyers can serve as advocates in international arbitral proceedings.Conversely, in domestic arbitrations, only lawyers admitted to practise in Ecuador can serve as advocates.

30. Are the fees of foreign lawyers earned for services rendered in connection with an arbitration seated in your jurisdiction subject to local taxation?

If the fees of the foreign lawyers are paid with money that qualified as originating in Ecuador in accordance with Ecuadorian tax law, they will be subject to income tax, VAT and the currency outflow tax.

31. In what circumstances, if any, does your law allow the consolidation of multiple arbitral proceedings into a single proceeding?

The Arbitration and Mediation Law is silent when it comes to consolidation of multiple arbitral proceedings, therefore, it will ultimately depend on the arbitration rules chosen by the parties. Relevant case law (proceedings 042-09 and 045-09 CAM CCQ) has proposed at least three requirements, that is, (i) compatibility of arbitral agreements; (ii) the opportunity of all parties to participate in the constitution of the Arbitral Tribunal; and (iii) that all parties had consented on the consolidation.

32. Please describe common practice and usage in international arbitrations seated in your jurisdiction with respect to a party's right to require an opposing party to produce documents pertinent to the dispute.

The Arbitration and Mediation Law does not regulate the taking of evidence in arbitral proceedings, therefore, it will depend on the rules adopted by the parties and the arbitral tribunal in this regard. Nonetheless, in general, there is an increasing tendency to adopt the IBA Rules on the Taking of Evidence in International Arbitration, notwithstanding the fact that there is still a great number of arbitrators who resort to Ecuadorian law for the purposes of document production. It is worth noting that, under Ecuadorian law, there are no consequences for parties' representatives if that party fails to comply with an order to produce a document or when it conceals or destroys documents pertaining to that arbitration.

33. Does the law impose a duty of confidentiality in arbitration? If so, on whom?

Contrary to international practice, according to article 34 of the Arbitration and Mediation Law, arbitral proceedings are public unless parties agree otherwise. When confidentiality has been agreed, it obliges the arbitral institution, the tribunal, parties and their representatives.

34. Does the law authorise third-party funding for international arbitration? Are there any ethical limitations imposed upon counsel to the parties that restricts the use of such funding?

The Arbitration and Mediation Law is silent with respect to third-party funding; nonetheless, it is worth mentioning that it is not a common practice in Ecuador.

35. Are there any mandatory national rules of professional ethics that apply to counsel in an international arbitration in your jurisdiction? If so, are those rules applicable to counsel from another jurisdiction participating in an arbitration in your jurisdiction?

Regardless of the nationality or jurisdiction of the counsel, there are no mandatory national rules of professional ethics that apply to counsel in an international arbitration. As reference, an arbitral tribunal could resort to soft law or to the ethical rules applicable to the court's litigation.

36. Are there any mandatory rules on oath or affirmation for witnesses testifying in an arbitration in your jurisdiction that have to be administered prior to their testimony? If so, what are they?

As mentioned before, the Arbitration and Mediation Law does not contain express provisions on the taking of evidence, nonetheless, as result of the influence of civil procedure, it is a common practice that a witness should declare under oath.

Court support for arbitration

37. Are there restrictions in your jurisdiction on the interviewing of witnesses in anticipation of hearings or giving of testimony?

There are no restrictions in this sense under the Arbitration and Mediation Law.

38. Can arbitrators decide on their own jurisdiction? Is the principle of 'Kompentenz-Kompetenz' followed in the courts?

Pursuant to article 22 of the Arbitration and Mediation Law, arbitral tribunals have the power to decide over their own jurisdiction. This is principle is reaffirmed by article 7 of the Arbitration and Mediation Law whereby domestic courts are precluded to hear claims where arbitration has been agreed. Furthermore, according to the same article, in case of doubt, courts must decline their jurisdiction in favour of arbitration. These principles have been consistently followed by domestic courts, especially after the landmark case Faisal Misle v INGESA SA (decided by the Constitutional Court).

39. Do the courts follow the principle of the independence and separability of the arbitration clause?

Article 5 of the Arbitration and Mediation Law expressly recognises the principle of independence and separability of the arbitration agreement. This principle has been constantly followed by courts and arbitral tribunals.

40. Are arbitral tribunals empowered to grant interim relief? If so, how is that relief enforced in the courts?

Article 9 of the Arbitration and Mediation Law grants an arbitral tribunal the power to issue orders granting interim reliefs. If the parties expressly agree on it, arbitral tribunals can directly request the assistance of public entities and officials for the purpose of enforcing an order granting interim relief. If there is not such agreement, parties must resort to domestic courts and request the enforcement of the order granting provisional relief.

41. Can arbitrators issue orders, subpoenas or use other legal processes to compel the production of evidence by a third party or compel a third-party witness to appear before them? If so, will a court lend its aid in enforcing such an order against a recalcitrant third party? Also, if arbitrators can issue orders, subpoenas or use other legal processes to compel the production of evidence by a third party or compel a third-party witness to appear before them, are there any limitations to their doing so?

According to article 130 (7) of the Organic Code of the Judicial Branch, arbitrators can resort directly to public authorities to compel the production of evidence by a third party or compel a third-party witness to appear before them.

42. Can a party to an arbitration seek relief from the court to obtain evidence in aid of an international arbitration? What is the scope of such relief?

Pursuant to articles 120 to 123 of the Organic Code of General Procedures, a party can request the assistance of courts in order to obtain evidence before the commencement of an arbitration procedure. The scope of evidence that can be requested is broad, ranging from urgent witness statements, production of documents to site or object inspections.

43. Can a party in an international commercial arbitration seek interim or provisional relief from a court without first seeking relief from the arbitral tribunal?

A party can request interim relief from domestic courts before the constitution of the arbitral tribunal. Once an arbitral tribunal has been constituted, it has exclusive jurisdiction to grant interim relief.

44. Have the courts issued injunctions enjoining arbitral proceedings from going forward?

It might be possible to argue that anti-suit injunctions against any jurisdictional proceeding or arbitral proceedings are not available in Ecuador since these proceedings are jurisdictional in nature and, therefore, no constitutional recourse other than an Extraordinary Action of Protection could be filed ex post.

45. Does the law provide that post-award interest accrues on an unpaid arbitral award?

Yes, at the enforcement stage of an arbitral award, a court can liquidate post-award interest from the date of issuance of the award.

46. Is an arbitral tribunal empowered to award attorneys' fees to the prevailing party or is that power reserved to the courts?

Yes, arbitral tribunals are empowered to award attorneys' fees to the prevailing party. The common practice in Ecuador is to award attorneys' fees only if the counterparty has litigated in bad faith or if it has unjustifiably delayed the course of the proceedings.

Awards - content

47. Is an arbitral tribunal empowered to award punitive or exemplary damages? Is the arbitral tribunal empowered to award interest?

The Arbitration and Mediation Law is silent on this respect, therefore, it will depend on the substantive law applicable to the dispute. Nonetheless, it is worth noting that under Ecuadorian substantive law only compensatory damages are allowed.

48. What are the grounds for challenging or vacating an international award issued in an arbitration seated in your jurisdiction?

There are two means whereby a party could challenge an arbitral award (ie, an annulment procedure before a provincial court, and a constitutional injunction known as Acción Extraordinaria de Protección (Extraordinary Protection Action) before the Constitutional Court).

Pursuant to article 31 of the Arbitration and Mediation Law, a party might request a provincial court to annul an award on the following grounds:

- failure to (i) serve the claim to the defendant in a process heard and terminated ex parte, and (ii) to notify a party with a tribunal's procedural order, provided that, in both cases, it had led to the breach of that party's right of defence;
- failure to take evidence despite the existence of facts that must be justified; or
- extra or ultra petitum award.

According to article 94 of the Ecuadorian Constitution, a party may file an Extraordinary Protection Action, by means of which the Constitutional Court could vacate an arbitral award if it verifies that a constitutional right was violated in the proceedings.

Previously, it was not clear if a party to file an Extraordinary Protection Action had first to challenge the arbitral award before a provincial court by means of an annulment procedure. The Constitutional Court recently ruled that a party is only bound to exhaust an annulment procedure prior to file an Extraordinary Protection Action if the grounds for challenging the award are those set forth in article 31 of the Arbitration and Mediation Law, otherwise, it can proceed directly with an Extraordinary Protection Action.

49. Is "lack of reasonableness", manifest disregard or a mistake in the application of the substantive law to the dispute of an international award grounds to vacate it?

Some scholars and practitioners have argued that if there is "lack of reasonableness" that equates to the failure to state reasons, an award can be challenged before the Constitutional Court by means of an Extraordinary Protection Action.

50. Have international awards rendered in your jurisdiction been vacated on the grounds of "public policy"? If so, how has the "public policy" ground for vacating an award been interpreted in your jurisdiction?

No.

51. What is the period of time a party has to challenge such an award after its issuance?

A party has 10 days from the leave for enforcement to file an annulment request. If a party intends to challenge an award by means of an Extraordinary Protection Action, it has to file a request within 20 days of the issuance of the award. It is worth noting that an Extraordinary Protection Action could also be filed against a decision on annulment of an arbitral award.

52. Please describe any recent significant experiences or cases that illustrate the attitude of your courts towards the annulment of international awards rendered in your jurisdiction.

There are no reported cases on the matter. Nevertheless, in domestic arbitration, courts have a deferential attitude towards awards, interpreting annulment grounds in a restrictive way.

Awards enforcement

53. Do the courts consider themselves empowered to vacate an arbitral award rendered in another jurisdiction?

There are no reported cases on the matter. Nevertheless, Ecuadorian law does not grant a court the power to set aside and arbitral award rendered in another jurisdiction.

54. May parties waive all court review of an arbitral award rendered in your jurisdiction (or restrict or expand the scope of that court review)?

The National Court of Justice in the case of Latin American Telecom Inc v Pacifictel SA ruled that parties cannot waive their right to challenge an arbitral award.

55. Please describe the process for enforcing an arbitral award rendered in another jurisdiction.

In August 2018, Ecuador enacted a law tending to attract foreign investments, the Organic Law for Productive Development, Attraction of Investments, Generation of Employment, and Stability and Fiscal Equilibrium. This law eliminated the homologation procedure for international arbitration awards required in the Organic Code of General Procedures and restored the validity of the enforcement of international commercial arbitration awards provided in article 42 of the Arbitration and Mediation Law.

The Arbitration and Mediation Law assimilates international arbitral awards to domestic arbitral awards. The final paragraph of its article 42 states that "awards rendered in an international arbitration proceeding shall have the same effects and shall be enforced in the same manner as awards issued in a local arbitration proceeding," which, pursuant to article 32 of the Arbitration and Mediation Law, are enforced in the same way as final judgments rendered by local courts. This is done through the so-called judicial order for enforcement without delay (immediate execution). The request of execution might be rendered to a court of first instance; the latter will appoint an expert to liquidate the capital, interest and costs in a reasonable period of time granted. Once the court has the final liquidation of damages, it will order its execution. The defendant has some specific causes to oppose the execution – all of them basically referred to scenarios of payment of the obligation.

56. Assuming that the award is covered by a convention applicable in your jurisdiction, how long does it take to obtain an order of enforcement in the first instance? How long does it take for the enforcement process to run its full course through to the last instance?

Since the procedure of enforcement was recently re-established in August 2018, there is little experience in this matter. Therefore, we are not in a position to assess the length of the recognition and enforcement procedure. Nevertheless, at least from a normative perspective, the enforcement of an award, whether international or domestic, should take the same time.

57. Please compare how long it takes to enforce an arbitral award rendered abroad with how long it takes to domesticate a foreign judgment.

There is little experience in this matter, we are not in a position to assess the length of the enforcement procedure of an award, but, at least from a normative perspective, the enforcement of an award, whether international or domestic, should take the same time.

58. Please describe some significant recent experiences with the enforcement of foreign arbitral awards.

The procedure of homologation was repealed in August 2018 and there is no much experience in the subject matter. Notwithstanding, the scarce case law found in this matter is somehow inconsistent.

In an enforcement procedure of a foreign award – initiated in 2019 – a court of first instance rejected the request since, according to the particular view of the judge, prior to its enforcement a recognition procedure should have been initiated. A Chamber of the Pichincha's Provincial Court of Appeal uphold the judgment. The plaintiff filed an Acción Extraordinaria de Protección before the Constitutional Court and it has been accepted, but the decision still pending.

In a subsequent litigation with the same parties and related to the same award, another Chamber of Pichincha's Court of Appeal took a different rationale and decided on January 2020 that international awards: (i) are presumed to be valid; (ii) shall be enforced in the same manner as domestic awards; and (iii) the causes to oppose to its enforcement are restrictive – the same provided to oppose the enforcement of a judgment.

The outlook

59. To what degree has "public policy" been a ground to refuse enforcement of an international award rendered abroad?

There are no reported cases in this matter.

60. Can a foreign arbitral award be enforced if the award has been set aside by the courts at the seat of the arbitration?

Under Ecuadorian law, there is no particular prohibition on obtaining recognition and enforcement of an award that has been set aside at the seat of the arbitration.

61. Has your jurisdiction refused to pay an international arbitral award issued against the state or an instrumentality of the state in your jurisdiction? If so, please provide a brief explanation.

As to the date of this submission, Ecuador has honoured and paid for all international awards issued against the state or any state entity.

62. What is your view of the future of international arbitration and is the trend positive in your jurisdiction? What advice do you have with respect to dispute resolution for a foreign lawyer advising a foreign client contemplating entering into a business deal with a company from your jurisdiction?

In the past three years, the backlash against investment arbitration seems to have vanished. Recently, Ecuadorian politics have tended to be directed at attracting foreign investment to the country. In this regard, Ecuador will continue negotiating international trade agreements with strategic countries and

entering into investment contracts with foreign investors. These instruments are expected to include protections and guarantees for foreign investments based on international standards. Also, in August 2018 the former president of the National Assembly asked for the interpretation of article 422 of the Ecuadorian Constitution to the Constitutional Court as a previous interpretation of this article restricts investment arbitration.

However, commercial arbitration, both domestic and international, has experienced considerable growth in recent years. This development has come with increasing sophistication in the forum. Both arbitrators and practitioners have adopted international standards and practices, reducing the gap and marking a path to convergency between domestic and international arbitration. It is advisable for all foreign clients contemplating entering into a business deal with an Ecuadorian company or the Ecuadorian government to incorporate an arbitration agreement into their contracts.

Eduardo Carmigniani

Carmigniani Pérez

As profiled by *Chambers and Partners*, Mr Carmigniani is considered "one of the most important litigators in the country". He advises local and multinational corporations in complex litigation (particularly in commercial, banking, civil, telecommunications and constitutional matters) and arbitration (both domestic and international). He regularly represents parties and sits as arbitrator in cases involving different rules (CCI, UNCITRAL and ICSID) and multiple jurisdictions.

Mr Carmigniani is president of the Ecuadorian chapter of the Club Español del Arbitraje; member of the Advisory Council of the Center of Arbitration and Conciliation of the Chamber of Commerce of Guayaquil; member of the Latin American Group of the ICC International Court of Arbitration; arbitrator of the Chamber of Commerce of Quito and Arbitrator of the Arbitration and Mediation Centre of the Ecuadorian American Chamber of Commerce (AMCHAM Quito).

Recent advisory work includes representing: an Ecuadorian group in an ICC arbitration with a seat in Mexico regarding a cross-border acquisition of a corporation in the dairy industry; a Mexican investor in an arbitration matter under the rules of the CIAM regarding breach of a concession contract; an Ecuadorian company in a 28 US Code § 1782 action in the courts of Florida; an Ecuadorian corporation in the successful negotiation of an exclusivity clause contained in a supply contract; and a company in several constitutional challenges of legislative measures that levy a tax on telecommunication infrastructure on different municipalities.

Hugo García Larriva

Carmigniani Pérez

Mr García-Larriva focuses his practice on complex litigation, domestic and international arbitration (commercial and investment matters) and public international law. He has experience in cases involving multiple jurisdictions and procedural rules and has participated in proceedings before ICC, ICSID and ad hoc UNCITRAL arbitral tribunals.

Prior to joining Carmigniani Pérez, Mr García-Larriva worked in the international arbitration group of an international law firm in Paris, France. Mr García-Larriva has also served as legal adviser to the Attorney General Office of Ecuador (Unit of International Affairs and Arbitration), and as director and deputy director of the most important centres of arbitration and mediation in Ecuador. He lectures at the master's programme in international arbitration and litigation and undergraduate programme in law at the Universidad San Francisco de Quito. Mr García-Larriva is director of the Ecuadorian Institute of Arbitration and former ICC YAF representative for Latin America.

His recent experience includes: representing an Ecuadorian group in an ICC arbitration with a seat in México regarding a cross-border acquisition of a corporation in the dairy industry; the defence of a Latin American state in two ICSID arbitrations, the representation of the Central Bank of Ecuador in a case before the Judicial Committee of the Privy Council (UK); and the representation of Ecuador in two proceedings before the Andean Court of Justice regarding alleged restrictions to trade.

Alvaro Galindo

Carmigniani Pérez

Dr Galindo focuses his practice in arbitration, with vast experience in international litigation, particularly in arbitration under investment treaties and contracts in strategic sectors, energy, telecommunications, and construction. He has concentrated his activity in arbitrations involving states and state entities in Latin America. Additionally, he acts as an arbitrator in domestic and international proceedings.

Professor in the international arbitration programme at Georgetown University Law Center and the summer programme of international arbitration at the American University Law School.

In his capacity as Director of International Affairs and Arbitration at the Attorney General's Office of the Republic of Ecuador, he represented the state in the negotiation of more than 10 international investment disputes during the consultation phase provided for in international investment treaties (BITs) and in more than 20 international arbitrations under foreign investment treaties and contracts.

Currently, he is a member of the ICC International Court of Arbitration. He is an arbitrator in the most renowned Arbitration Centers in Ecuador and in various arbitration centers in the Latin American region. He is a member of the committee of the Permanent Court of Arbitration (PCA, The Hague, Netherlands) for the drafting of the amendments to the PCA Arbitration Rules; he was a member of the list of arbitrators of the Permanent Court of Arbitration until February 2020; he currently collaborates, pro bono, as a member of the Latin American Alumni Directory of the Georgetown University Law Center.

Moreover, Dr Galindo is the author of countless articles on international arbitration and investment law in the most prestigious national and international publications on the subject.

Dr Galindo has participated as a delegate in different international forums, among others, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Commission on International Trade Law (UNCITRAL); he is a member of the of the Legal Advisory Task Force (LATF), set up by the Energy Charter Secretariat to assist in the drafting of the Model Agreement for cross-border oil and gas. Currently, he participates as an observer in the UNCITRAL Working Group III for the reform of the Investor-State Dispute Settlement system.

Dr Galindo has been recognised by The Legal 500 Latin America since 2012 and was noted as 'outstandingly intelligent' and for his 'incomparable capacity for coordinating, planning, strategic assessment, and for his diplomatic approach'.

Carla Cepeda Altamirano

Carmigniani Pérez

Ms Cepeda focuses her practice on arbitration and litigation. She represents clients in disputes related to public, civil, commercial and corporate law matters.

Ms Cepeda has experience in ADR proceedings, corporate consultancy and domestic and international arbitration. Before joining Carmigniani Pérez, Ms Cepeda held internships in the Attorney General Office of Ecuador (Unit of Mediation) and in the Arbitration and Mediation Centre of the Ecuadorian American Chamber of Commerce (AMCHAM Quito). Since 2012, Ms Cepeda has been assistant professor of property law, contracts and inheritance law at the Universidad San Francisco de Quito.

Her relevant recent experience includes: representing a Mexican investor in an arbitration under the rules of the Centre of International Arbitration and Mediation arising out of a breach of a concession contract; representing the defendant in an ICC arbitration with seat on Miami in a dispute about a settlement agreement and the restitution of industrial equipment; representing the defendant in a domestic arbitration at the Chamber of Commerce of Quito arising from the performance of public projects.

Bernarda Muriel

Carmigniani Pérez

Bernarda Muriel is a member of the Carmigniani Pérez litigation and arbitration team, focusing her practice on commercial arbitration and commercial as well as administrative litigation.

Moreover, Bernarda has relevant experience in arbitration proceedings related to construction and telecommunications.

In addition to her practice in dispute resolution, Bernarda renders advice to clients on corporate matters, in real estate issues and due diligence processes.

CARMIGNIANI PÉREZ
ABOGADOS

Our team of associates includes highly qualified professionals, all of which have received degrees from prestigious local and foreign law schools, to effectively execute the designed strategies in order to achieve favourable outcomes for our clients.

Our partners, with extensive business and market knowledge, gained through decades of experience in their areas of professional practice, where they have successfully handled large-scale and complex issues, personally lead and supervise all of the firm's matters and closely guide their work teams. Chambers, Latin Lawyer, LACCA and The Legal 500, among others, acknowledge them as leaders in their fields of specialisation.

We focus on developing long-term professional relationships, and hence, we guarantee our clients a personalised attention and a committed and dedicated service, with a global vision, a multidisciplinary approach and with integral, creative and innovative proposals, adjusted to the particular needs of each business or conflict.

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