NEWSLETTER

EUROLATAMLEX
International Law Firms Network

No 1 | 2019

GREETINGS

Dear friends and colleagues,

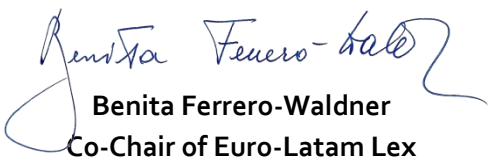
Welcome to this special edition of the Euro Latam Lex newsletter!

First and foremost, I would like to take this opportunity to thank you for your participation in the XXVI Biennial Congress of the World Jurist Association. The congress took place in Madrid on 19th & 20th February 2019, and discussed the topics of Constitution, Democracy & Freedom throughout the world, during which H.M. the King Felipe VI was awarded the World Peace & Liberty Award for his role as a defender of the Spanish Constitution. Thanks to your shared vision, knowledge, and experience, we have created a historic event and helped the WJA in their mission of promoting peace through the rule of law.

In connection with the WLC, this special edition is related to your experience at the WLC and the topics discussed in Panels 16 & 17: "Litigation funding- a new way to access justice" and "Legal protection of investments". Our hope is that this newsletter will allow for further conversation, debating and the sharing of ideas on current issues in order to build a better world.

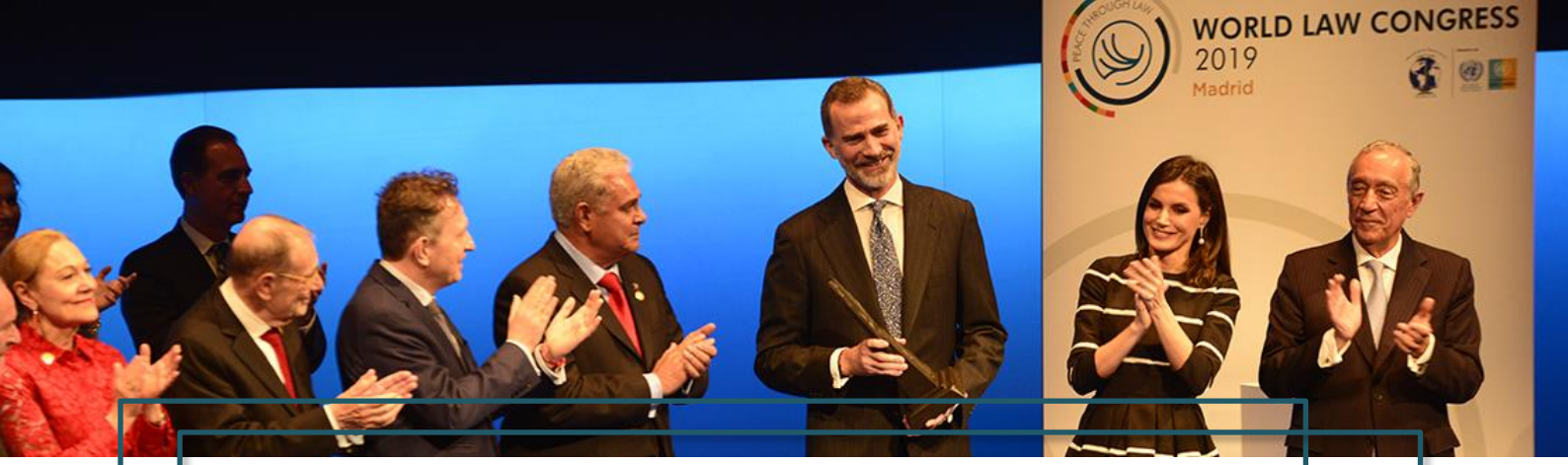
I would like to thank you once again for your contributions and I hope that you will find this special edition of the Euro Latam Lex newsletter informative, enjoyable and useful.

Yours sincerely,



Benita Ferrero-Waldner
Co-Chair of Euro-Latam Lex
and Partner at Cremades & Calvo-Sotelo

Former European Commissioner for External Relations and former Minister of Foreign Affairs, Austria



WORLD LAW CONGRESS 2019

On February 19th & 20th, Madrid became the World Law Capital during the XXVI Biennial Congress of the World Jurist Association.

The Congress focused on the Rule of Law as guarantor of freedom, offering an integrated view of the great issues that concern humanity and on which the world of law must respond. The congress was an open forum in which judges, lawyers, companies and institutions from more than 140 countries supported the progress of humanity, and coexistence in democratic and free state.

The second day of the World Law Congress, at Madrid's spectacular 'Teatro Real', was a day of celebrating and attended by all congress participants, speakers, politicians, ambassadors, journalists and lawyers from around the world. The ceremony was opened by Manuela Carmeña, Mayor of Madrid, who affirmed in her inaugural statement that "Law is the vocation and the essence of the configuration of all cities, which are organized around the respect of the rights of their citizens".

Benita Ferrero-Waldner, Former European Commissioner for External Relations & European Neighborhood Policy (2004-2009), was in charge of moderating interventions by **Elizabeth Cassin**, **Randolph Churchill** and **Hon. Jus. Johann Kriegler**. **Throughout it's history, the World Jurist Association has awarded notorious international personalities, including Sir Winston Churchill**, when the World Jurist Association was still a program within the American Bar Association; **René Cassin**, recognized for his effort in the drafting of the United Nations Universal Declaration of Human Rights; and **Nelson Mandela**, for his tireless struggle for human rights in South Africa, and who was later awarded the Nobel Prize.

Ángel Garrido, President of the Autonomous Region of Madrid, closed the Ceremony of the Act of Affirming Peace Through Law, by declaring that the figure of the King and the Constitution are guarantors of Spanish law and prosperity. He finished by telling the audience that "***Without law there is no peace, justice or coexistence***".

Afterwards, the Closing Ceremony of the XXVI Biennial Congress began with statement by **Dr. Franklin Hoet-Linares**, World Jurist Association Worldwide President, **Manuel Aragón Reyes**, Director of the World Law Congress and **Javier Cremades García**, **who in his statement recalled Earl Warren's words, who in his**

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closing speech of the American Bar Association's general assembly assured that "*in any advanced democracy, the delays in the justice and errors in procedures deteriorate the quality of justice*".

In this XXVI Biennial Congress the World Jurist Association awarded H.M. King Felipe VI of Spain with the World Peace and Liberty Award, for his unwavering commitment to the Rule of Law, and the defense of Democracy and Freedom in Spain.

María Eugenia Gay Rosell; Dean of the Barcelona Bar Association, read the closing act of the Congress in which H.M The King was granted the WJA World Peace & Liberty Award. Likewise, **Felipe Gonzalez**; Prime Minister of Spain (1982-1996), made a laudatio to H.M. Felipe VI of Spain, in which he defended the work of the King saying that "***we have never enjoyed a head of state so committed to pluralism, diversity and respect for individual freedoms. There are many reasons for him to be distinguished today***".

Subsequently, H.M. King Felipe VI, accompanied by Queen Letizia, was highly **received a standing ovation after receiving the World Peace and Liberty Award from Franklin Hoet-Linares and Javier Cremades**. The President of Portugal, **Marcelo Rebelo de Sousa**, also took part in the ceremony and highlighted the strong relations that have united Portugal and Spain throughout their history.

Finally, H.M. King Felipe VI of Spain closed the Congress stating that "***it is not admissible to appeal to a supposed democracy above the law, because without respect for the law there is neither coexistence nor democracy, but insecurity, arbitrariness or, ultimately, bankruptcy of the moral and civic principles of the society***".

LITIGATION FUNDING

Litigation funding is a new way to access justice that consists of a professional funder paying all or some of the expenses associated with litigation to one of the parties, in exchange for a percentage of the profit, if said party is successful in the process. However, in the event that the party financed does not win the litigation, the financier would assume the previously agreed costs.

At first, the purpose of this tool was to allow greater access to justice in cases where there was not enough financial means to access it. However, in more recent times it has also given companies the opportunity to proactively identify and address the risk of litigation.

The idea of litigation funding is deeply rooted in US legislation, where it is increasing in practice, unlike in some European countries, such as Spain, where it is still in its developing stages.

It is a very controversial practice because although it generates great advantages both for companies and for law firms, where it is progressively being implemented as a new business area, it can also give rise to professional ethics dilemmas.

Many specialists participated in Panel 16, which covered the opinions of both the lawyers and investors-professionals in outstanding law firms and companies from America and Europe. The variety of ideas allowed an interesting debate to take place between the speakers and the audience that attended.

Jaime Carvajal (**Herbert Smith Freehills**) made the opening remarks by explaining that Litigation Funding is a new tool that facilitates access to justice by reducing the impact of the litigation costs on the parties involved by allowing a third party, which in this case is a specialized investor, to assume part or all of the litigation costs (including attorneys' fees) in exchange for a share of the economic outcome of the judgment. If the litigation is unsuccessful, the investor assumes the costs he has agreed to finance.

After highlighting their interest and the advantages of litigation funding, different speakers presented their points of view on the nature of this phenomenon. The speakers emphasized that the idea of litigation funding is of interest for: companies that deal with the expenses of complex litigation; law firms that may have the economic resources at their disposal but need a better defence; investors that bet on complex operations; and those clients who's rights have been violated due to a lack of resources and are not able to access justice.

The discussion focused on the objectives and principles

of third-party litigation financing, including the ethical advantages and disadvantages.

A prominent aspect of the debate was the experiences of financial litigation in the United States and Europe as a consequence of the expensive application for litigation insurance.

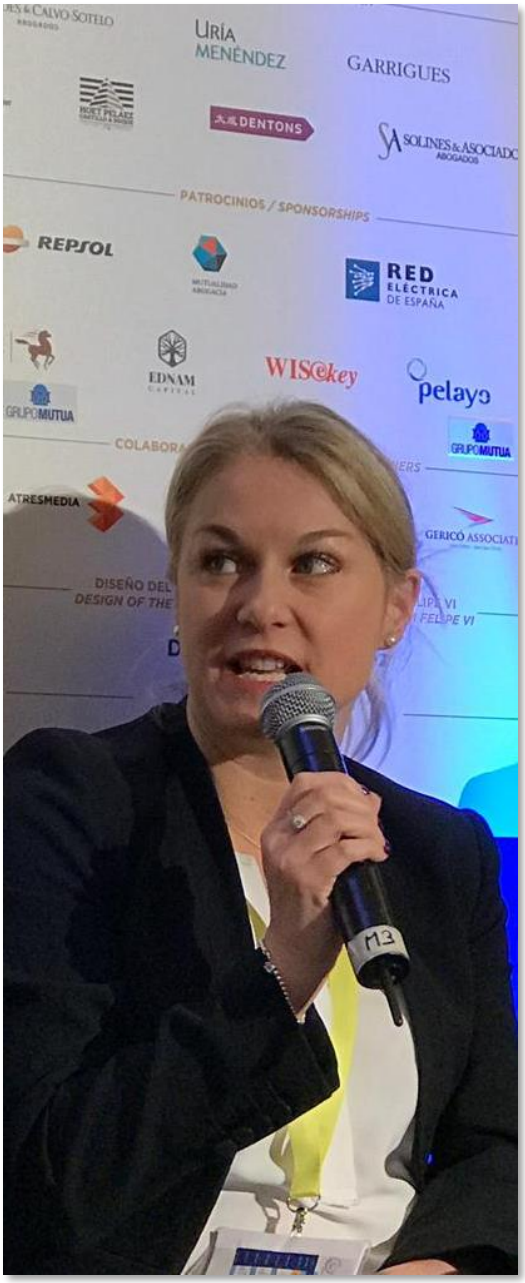
Antonio Pastor (**Herbert Smith Freehills**) underlined the general interest of litigation financing by allowing a greater access to justice, especially considering that clients seek quick solutions and litigation is complex and lengthy. In this sense, litigation funding constitutes a suitable tool for the protection of investors, in which the speaker highlighted how UNCITRAL has discussed the usefulness and scope of this mechanism in the field of investment arbitration, including the issues of enforcement and confidentiality.

In Spain, the idea of litigation funding is barely in the development stages. In his opinion, it can be implemented if law firms, with a suitable profile that is determined by the investor, identify potential clients with high probabilities of success and benefits for the parties involved.

James Black (**Partner of Silverman Acampora and a leading lawyer in commercial disputes in the United States**) pointed out that litigation funding has increased 70% in recent years. The main concern of investors is that they are not considered a party and that their influence in the litigation is only as a sponsor. However. lawvers take on an additional commitment to obtain positive results to receive new funding. In his experience, investors do not seek very risky or novel litigation. He also stressed the importance of the credibility of the lawyer through transparency and constant information to the investor.

Along the same lines and in relation to the U.S. territory, **David Kovel** (**Partner of Kirby Mclnerney and lawyer specializing in complex issues of commodities, antitrust, whistleblower, securities and corporate governance matters**) mentioned that because the process and rules of litigation are different from country to country, investors must adjust their profiles. He agrees that funding is in the public interest because it allows greater access to justice in those countries where litigation costs are high. On the other hand, he explained that the American regulations allow the lawyer to request a percentage depending on the outcome of the litigation (Success fee). The funding can be provided through direct sponsorship to the party financed (plaintiff or defendant) or with a line of credit that will be exercised according to the needs of the litigation process. The decision on which method to use will depend on the type of litigation and tax considerations. With respect to transparency, in their experience it is important for judges that the investor has access to all necessary information prior to funding any litigation, without implying additional disclosure to the opposing party.

Genevieve Anouk Labbé (**Of Counsel at Hausfeld Law Firm**) shared her experience as a lawyer and investor in America and Europe. She explained that, over the last few years, there have been significant changes in litigation funding in British law. In particular, British lawyers have an obligation to inform clients of the various options for financing litigation, clearly identifying the amounts of remuneration and expenses.



Today, litigation funding is part of the transformation that legal departments are undergoing, even large companies consider litigation funding as an internal revenue department and is constantly used as an instrument for claiming damages. There are cases, such as in Australia, where investors engage in litigation to improve the chances of a favourable outcome. In their opinion, investors need to adapt and to be flexible in order to survive the current markets and regulations.

Philip Rubens (**Partner at Teacher Stern UK and a highly regarded solicitor with expertise in contentious financial services**) stressed that litigation funding is not easy because there is a predilection to finance commercial litigation and arbitration. It is quite common for clients to show interest in obtaining financing. However, due to the restrictive profiles, there are few cases that will obtain 100% of the resources.

In the financing procedure, thorough due diligence is carried out with personal interviews by the investors. On the other hand, litigation costs are high and since investors are not in a position to pay for all proposals, investment committees are created to determine budget allocations. The expectation of return for the investors is 10 to 1, so that the amount of damages will cover the costs, which generates a lot of pressure on firms.

In the second part of the debate the funds offered their perspective. **Diego Santacruz** (**Director of Carbonia Inversiones- the first Spanish fund to finance litigation**) explained the experience of his fund highlighting the basic principles that govern his work. In this sense, flexibility is essential to adapt to the needs of each client and to the treatment of each type of procedure in the different legislations and in the different jurisdictions. He also points out that, in his opinion, funds do not simply collect the information from the proceedings, but rather analyse the information and then provide the client with instructions on the litigation.

Ignacio Delgado Larena-Avellaneda (**Head of Therium Capital in Spain**) stressed that the funds must adapt to the needs of the market, by analysing the opportunities, and to the needs of the client. The market changes very quickly and new firms emerge that adapt to the new opportunities presented by the sale of litigation.

Antonio Wesolowski (representative of **Calunius Capital**) highlighted that in the beginning of the financial litigation industry, litigation funding was only for those cases in which there are no economic means to access justice. However, although this continues to be one of its purposes, it also allows companies to identify and proactively address the risk of litigation, emphasizing that the financing of litigation focuses on investment arbitration and commercial arbitration.

Simon Warr (**Head of Legal Expenses Underwriting at AmTrust Law and President of the International Association of Legal Protection Insurers**) offered his view from an English perspective, pointing out that the funding market is different from country to country. However, litigation funding works best when the lawyer knows how the funds work, which also applies to liquidation cases. He also referred to the costs of litigation and relates it to class actions, closing his speech with a reference to the insurance policy in the funds.

Finally, **Eduardo Sebastián de Erice** (**Partner of Cremades & Calvo Sotelo**) made it clear that this work is new in Spain and began with arbitrations against Spain for the change of renewable energies. He shared his experience in litigation in the banking sector. In his opinion, litigation funding for large companies is a way to avoid insurance problems. Currently, there is no law in Spain for litigation funding- it has been left to the freedom of agreements between the parties, while taking into consideration the ethical implications.

LEGAL PROTECTION OF INVESTMENTS

Investments are one of the easiest actions, and therefore, one of the most important in the economy. Any person with a minimum capital can invest in order to obtain benefits.

But what are the legal tools that make investments attractive? The appeal of this type of economic action depends on the country in which you carry out the investment.

For example, in Ecuador investments have been promoted with greater intensity since 2010, and there are currently tax incentives. Whereas, in Brazil arbitration is important, and interest rates are quite low. The legal framework in Brazil is very focused on attracting more foreign direct investment,.

On the other hand, the United States is attractive for investors so long as there are damages which can be claimed in case the company has economic losses. In most cases, many victims of fraud end up obtaining an economic compensation.

In regards to Turkey, it should be noted that the most common method of conflict resolution is arbitration, which leads us to consider the possible differences in this process depending on the country.

In Brazil and Bolivia the importance of Bilateral Investment Treaties (BITs) has increased. Especially, in Bolivia were the most important BITs were signed with the UK and Spain.

It should be noted that the economic situation in Latin America is good, and the most attractive countries for these types of actions are Peru, Colombia and Mexico.

In addition, many countries are undergoing great changes in the political sphere that aim to increase foreign investment. For example, in the case of Ecuador, fiscal incentives are being carried out. On the other hand, there are important investment opportunities in various sectors such as energy and infrastructure.

Despite the differences between Latin American countries, a common occurrence is the potential for profit that has not yet been exploited, as well as the fact that key structural processes are under way.

The panel addressed the topics of changes and opportunities in Brazil in the Bolsonaro era, changes and opportunities in Latin America, investment opportunities in Turkey and investment opportunities in Italy.

The panel was moderated by **Paulino Fajardo** (**Partner at Herbert Smith Freehills**) who focused the discussion on a comparative law exercise among the countries, represented by leading jurists from the Americas, Europe and Asia, through four key areas for future investors: overview of investments, negotiation of bilateral investment treaties, arbitration and exit of investments.

Bustamante with a wide range of experience in mergers and acquisitions, corporate and commercial law, franchise/distribution agreements and disputes, intellectual property and project finance) explained that, since 2010, Ecuador has tried to promote investments through fiscal incentives and the absence of devaluation of the dollar. On the other hand, Rafael explained the legal resources in case of expropriation and some recommendations when the government is the counterpart of the investor.

Santiago Solines Moreno (**Partner at Solines & Asociados Abogados and specialist in Latin American and Spanish Public and Corporate Law**) gave another perspective on Ecuador by elaborating on the legal and political aspects to be considered by the investor. He highlighted that in the last 10 years, under the Rafael Correa regime, a sustained growth was experienced due to public investment, which generated a scheme of concentration in the public sector and moved away from foreign investment causing a mirror effect on domestic investors. With the new administration, bilateral investment relations have increased and have encouraged the development of strategic sectors such as oil and mining, of which Ecuador has more reserves than Colombia and Peru, and in turn discouraging "swallow investments". He estimates that there is great potential for natural wealth in the country and only 10% has been exploited, in particular the mining sector which predicted a growth of 4% to 15% of the general state budget. Santiago believes that there is a dependence on oil, and that it is time to look for another source of energy such as hydropower with a view to develop wind and solar energy. He also believes that economic integration between Peru, Colombia and Ecuador is necessary in order to integrate the Andean community and thus promote foreign investment in the region.

Carlos Gerke Siles (**Partner of Estudio Jurídico Gerke with extensive experience in regulated sectors**) represented Bolivia and explained that the country is rich in gas and minerals, and thus presents a number of opportunities for new investors. He also pointed out that there are political efforts to redesign public policies promoting reinvestment, which is congruent with the democratic boom of the country that had an interest in entering into more bilateral agreements with Europe (UK and Spain). Finally, he pointed out a number of opportunities in the infrastructure sector for the growth of the country's development and agriculture sector as a supplier to South America.

Three prominent lawyers for the territory of Brazil participated and spoke of the extension of its territory and the potential of the investment market:

FF ADVOGADOS, Sao Paolo's leading firm in Public and Private Law, was represented by **Elisa Junqueira Figueiredo** (**Partner in charge of Private Law**) and **Francisco Petros** (**Partner in charge of Corporate Law, Capital Markets and Corporate Governance**). During their speeches they spoke of how the legal framework is focused on attracting foreign investment and thus presenting a number of great opportunities in the infrastructure sector, energy and technology, impacting on the optimism of economic growth in the coming years estimated by international organizations. From the financial point of view, the advantages of investing in Brazil are: low interest rates that can be complemented with an adequate fiscal strategy and thus diminishing the impact from the outset. In order to promote foreign investment, the government has entered into bilateral agreements that eliminate the payment of fees for access to justice, in addition to implementing measures to ensure a legally binding arbitration recognized by Brazilian courts to provide legal security to investments, as is the case of Petrobras. Currently, Brazil has a strong and updated set of regulations, with the advantage of having courts with sound knowledge in compliance and corporate governance issues. Brazil has many attractive areas for investment including, infrastructure, real estate, IT and energy sectors which are all growing. However, investment in the environment is only recommended as long as special regulations are respected.

Rodrigo Guimaraes Colares, (**leading lawyer in new technology law and investments in collaborative economy projects**) pointed out that there is an adequate legal framework for investment in infrastructure with limited liability for companies similar to Spanish companies. The government has

focused on promoting direct investment for which it does not discriminate between foreign and domestic investment and gives equal treatment to both types of investment, which allows for participation in sectors prone to liberalization such as airports.

Continuing with the Andean territory, Gabriel Fernández (Partner of Cremades & Calvo-Sotelo) spoke about the investment conditions in Colombia, emphasizing that in the last three years it has been the preferred destination for European investments due to the reform process in the last few years that has been oriented towards giving more independence and autonomy to make the regulated sectors more independent as well as the autonomy of the entities in charge of supervision. However, it recognises that there is room for improvement in the regulatory systems.

With respect to USA, Stacey Slaughter pointed out that it is an attractive country for investors due to the option of requesting damages, for example the victims of financial fraud have received substantial compensation. Another legal option is to file class actions and arbitration proceedings.

In regards to Italy, Claudio Damoli (Partner of Studio Legale Menichetti, a law firm with over fifty years of experience which has stood out for its case study) presented litigation statistics, highlighting energy and oil issues. Among the advantages of investing in Italy is that the law does not distinguish between the nationalities of investors so it does not discriminate against foreigners with respect to the treatment of nationals. For several years now, GDP has been growing steadily, reaching the highest levels in Europe as a result of the agriculture and technology services sectors. In particular the Verona region is an exceptional case for economic growth, achieving some of the highest employment rates. The fundamental values of the region include: small businesses, and traditional products with cutting-edge technology. The region also focuses on the following sectors: manufacturing, connection, textiles, footwear and wine production.

In recent years Turkey has positioned itself as a relevant player in several productive sectors and is attractive to new investors. Isaiah Soval-Levine, (lawyer specializing in data privacy and international business affairs) representing Tunca Law International, explained that Turkey has a large network of bilateral treaties that promote conflict resolution through arbitration, although some investment arbitration clauses are not clear. It is in the process of renegotiating eight agreements and recognizes that there is work to be done to promote the culture of conflict resolution outside conventional judgment, because despite having favourable awards its execution remains complicated.

LEGAL PROTECTION OF INVESTMENTS IN BRAZIL IN THE BOLSONARO ERA

The new Brazilian President Jair Messias Bolsonaro's intention is to create a pro-business environment in Brazil. Obviously, it is relatively early to make strong analysis about this government policy.

One must take into account the polarized political scenario that led to Bolsonaro's election (almost a plebiscite, in which citizens chose between the maintenance of Labor Party (PT) or not), is still present on the citizens and politicians mind and actions. Additionally, there are some concerns over the potential obstacles that the new President (Executive Power) will have to overcome, mainly the Congress's approvals of his actions to enable and increase investments in Brazil.

Nevertheless, we have already experienced some success, such as great results on bids on infra-structure (trains and airports) and the sale of some Petrobrás assets (pipelines) expected to reach $10 billion (US Dollars) in April, 2019. The development of such infra-structure projects will lead to the necessity of new investments in Brazil.

Is spite of the current situation, traditionally, there is a safe legal environment and legal protection to investors in Brazil. The rule of law is not challenged in any way by the uncertainty of economic and politic scenarios.

In this sense, I think it is worth mentioning a few examples:

- the investments and pay back rules to investors are clear, well-regulated and respected by Brazilian authorities, since the early 1950's;

- the anti-corruption act and compliance rules meant that Brazil now has international standards for investments;

- the data protection law, which will enter into force on August, 2020, is very similar to the European GDPR. However, there are already some general rules protecting said data;

- in case of conflicts, the investors can also choose to litigate on arbitration rather than before Judicial Courts. The arbitration chambers have no ties with the Government. Since 2015, it is possible to enter into an arbitration procedure with all branches of Government (concerning to alienable rights) and also regarding labor issues. The institute of arbitration is not challenged by the Judicial Courts, meaning that it is safe to go to arbitration in Brazil and to execute a Brazilian and international arbitration award in Brazil.

Therefore, although there are some very important issues yet to be decided (such as public pension and tax reforms) the rule of law is guaranteed and Brazil is ready and safe for new foreign investments.

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ELISA FIGUEIREDO

FRANCISCO PETROS

SPEAKERS PANEL 17. PARTNERS FF ADVOGADOS FERNANDES, FIGUEIREDO, FRANÇOSO, PETROS

XXVI Biennal Congress of the World Jurist Association

Keynote speech on how Bilateral Investment Treaties (BITs), which entered into force in Italy, are working in the different areas of the country and how important BITs rules are for real investments' protection in Italy.

BITs and Italy

To answer the questions it's important to begin with a very short analysis of some interesting statistical data you can find on the ICSID (International Centre for Settlement of Investment Disputes — of World Bank Group) official site. ICSID statistics say that:

a. In 2018, 56 new registered cases under the ICSID Convention arose.
b. Countries consent to ICSID jurisdiction in a variety of treaties, contracts and domestic laws. For those cases registered in 2018, BITs were the primary instrument invoked (57%), followed by investment contracts between the investor and the host-State (17%), and other international treaties (16%); the Energy Charter Treaty accounted for the remaining 10%.
c. In 2018, Italy was a party in only one of those 56 cases as host country of the investment (respondent party). In the last 5 years (since 2014) only 11 cases in which Italy is party as host country of the investment (respondent party) are pending or concluded under ICSID jurisdiction. In all 11 cases:

- only the energy sector (10 cases) and the oil sector (1 case) are involved
- investors didn't invoke BITs in which Italy was involved as a host country;
- investors invoked the Energy Charter Treaty;
- home investor country was an EU member (Italy included).

Considerations and a suggestion

The statistics show that actually there isn't an issue for investments protection in regards to BITs., in which Italy is involved as a party. The statistics show that rules in BITs, in which Italy is involved as a respondent party and often as EU member, are working very well. Therefore, there are not specific issues for foreign or Italian investors protection.

Nowadays Italy as a country is still divided in different areas and to get a real protection of your investment BITs rules are not a problem. You have to pay more attention to other important aspects, like to find a local institution (Chambers of Commerce, for example) and independent professionals who are representatives of that area. They are a source of good information and assistance for your investment project.

To conclude: maximum protection is assured alongside the best local sources of information available.

Studio Legale Menichetti

Claudio Damoli
Speaker Panel 17
Partner Studio
Legale Menichetti

Studio Legale Menichetti

ENZO PISA,
PANELIST IN PANEL 17
PARTNER STUDIO LEGALE MENICHETTI

It has truly been an honour and a privilege, to take part in the World Law Congress in Madrid, in the prestigious Teatro Real.

It was a high level international legal congress, with outstanding personalities from all over the world.

It proved to be a unique occasion to discuss key issues, topical in every country: the importance of the obeying Law, and the Constitution, in order to maintain the Democracy and the Freedom of all people of the world.

Whilst referring to democracy the topic of Freedom arose, because Democracy, Equality and Freedom are an inseparable combination.

Italy (my home country), as in many other countries throughout Europe, had to endure great efforts, hard political struggles and tragic wars in order to achieve a common goal: the conquest of Freedom through the institution of democratic governments.

Even now, depending on the country, the same behaviour can be just and legal or strictly forbidden and punished.

Contemplating these topics and not taking them for granted, and appreciating your liberties, is essential to maintaining social balance and prosperity.

I would like to thank everyone who organized this unforgettable congress, especially Cremades & Calvo Sotelo and Mr. Javier Cremades, the WJA President.

WORKING TOWARD REBUILDING THE LEGAL ORDER ON BUSINESS DISPUTES IN VENEZUELA

The Venezuelan legal system consists of international treaties, a Constitution and special laws that allow for the proper resolution of disputes pertaining to business matters. However, for them to be effective, the relevant institutions must be perfected, as they enable existing legal instruments to serve the purpose for which they were created. Thuis perfection may only be achieved through the reactivation of industrial activity in the country, backed mainly by foreign investment.

As a general consideration, it should be pointed out that Venezuela recognizes means of Alternative Dispute Resolution, including mediation, conciliation and arbitration. Along these lines, the Constitution establishes under Articles 253 and 258, the right to resort to such means, making them a fundamental prerogative directly linked to the guarantee of access to justice by those deserving justice, especially foreign businessmen and investors.

At present, a certain amount of conflicts in Venezuela are resolved through negotiation, as it is considered the quickest way, producing results more promptly than by trial in our country, which may draw out for over 5 years in all stages and instances.

The development of alternative dispute mechanisms has also been spurred through case law, with the publication of decisions by the Constitutional Chamber of the Supreme Court recognizing the importance of arbitration for trade and as a means of decongesting traditional conflict resolutions means, namely the courts of law.

Our brief recommendations for improving legal order in Venezuela are as follows:

1. Subscribe to treaties and conventions relating to means for protection of foreign investments
2. Support alternative dispute resolution mechanisms
3. Foster dispute resolution with impartial third parties not depending on the State
4. To whatever extent possible, settle lost litigation and thereby reduce the legal contingencies of the Venezuelan State and provide legal certainty
5. Trust the institutions
6. Create more courts
7. Create new arbitration centers
8. Visible release of exchange controls

These are brief recommendations to achieve a sense of legal certainty necessary to foster foreign investment and make up the leeway from the setbacks that have crippled Venezuela due to the severe economic and social crisis that has stifled the country.

LUIS GONZALO MONTEVERDE
PANELIST IN PANEL 17
PARTNER
TORRES PLAZ & ARAUJO

TORRES PLAZ & ARAUJO
ABOGADOS

JUAN DOMINGO ALFONZO
PANELIST IN PANEL 17
PARTNER
TORRES PLAZ & ARAUJO

Tunca International was honored to participate in the Euro Latam Lex Panel "Legal Protection of Investments" at the World Law Congress in Madrid. Isaiah Soval-Levine spoke about BIT protections available to investors in Turkey and issues to consider when arbitrating with Turkish parties. He drew particular attention to the issue of unclear drafting in the dispute resolution provisions in Turkey's first- and second-generation BITs, which have received diverging interpretations by different tribunals. He also shared with the audience recent developments in Turkey's treaty practice, which include innovative features such as conditioning treaty coverage on investors' contribution to the host State's economy, more precisely formulated treatment standards, and denial of benefits clauses. Isaiah later noted that many Turkish businesses are accustomed to utilizing commercial arbitration to resolve disputes with their international business partners. He therefore advised parties to take into account the requirements of Turkish law when negotiating arbitration clauses with Turkish parties to maximize the chances of enforcement of an eventual award in Turkey.

In addition, Tunca International was proud to share the panel with the other distinguished speakers on the panel, who shared their considerable expertise in their respective practice areas and geographic regions. In a time of somewhat economic and legal isolationism, their commitment to the development and application of the rule of law to facilitate international trade and investment by the private sector perfectly complimented the larger themes of the conference.

TUNCA HUKUK ULUSLARARASI
TUNCA LAW INTERNATIONAL

ISAIAH SOVAL- LEVINE
SPEAKER PANEL 17
OF COUNSEL TUNCA LAW
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EURO LATAM LEX AND WORLD LAW CONGRESS

Nowadays, businesses are not restricted by international borders. Consequently they do not fully appreciate their international need, which includes legal advice. It is common to find firms offering international legal services, but does this really exist? Are there specialists in International Law considering the regulatory barriers that depend on public administration? Are there international solutions that guarantee easy operations for industries?

In the Middle Ages, international law arose to provide legal security for the sale of goods transported by sea. However, it was not until the emergence of globalization (mid-late 20th Century) that the standard territorial advice was broken. This occurred largely due to an increase in exports and migrations; emergence of specialists in Private International Law; and new technologies, which are more necessary than before.

However, with the new business models and the diversified nature of countries, we are beginning to see increasingly complex circumstances that require a specialized knowledge in within the country and in the area of law. Although there are important institutions, such as the European Union, which aims to standardize legal systems, the reality is that on many occasions the protection of the law depends on the criteria of the recipient.

For this reason, the most efficient way to advise any client with an international operation is by combining the national and foreign perspective in order to achieve the common objective: to provide legal certainty to the client's interests.

The harmony between the two lawyers is essential as it is a team effort. The "home" lawyer puts his name and reputation in the hands of the international lawyer, which is why trust based on the experience and reputation of his colleague is fundamental.

No matter how experienced the international lawyer may be, he or she can only have knowledge at a general level - even in specialized subjects - which consists of the applicable legal standards and regulations. Even if the international lawyer resided and practiced law in the foreign country, the application of the law is of a dynamic nature that adjusts to the social and political environment, so the change in an administrative regulation decreases the precision that the international lawyer could have in his legal opinion.

Some law firms have decided to establish offices in other territories or enter into "franchise-type" collaboration agreements. The disadvantage of this model of international advice is that exclusivity is an essential element, which notably limits the possibility of going to other experts who can provide added value in legal advice.

That is why initiatives such as Euro Latam Lex emerge, whose purpose is to create a support network among legal professionals with outstanding track record and reputation to safeguard the lawyer's most important assets: credibility and accuracy.

Euro Latam Lex is not only a space for the provision of legal services, but also an entity committed to the application and observance of the Law through dialogue and exchange of opinions. Social and economic requirements are constantly evolving, which is why Euro Latam Lex believes it is essential to promote discussion in international forums that allow the legal community to have a perspective that integrates considerations from all over the world. To limit the knowledge of the law to a country or region would be an error, because although the regulation may vary, all lawyers have a common objective: to protect and ensure compliance with the rule of law.

In order to reinforce the presence of Euro Latam Lex in the international environment, a joint agreement has been signed with the World Jurist Association, who, considering the expertise of the network of lawyers that make up Euro Latam Lex, was interested in having two panels focused on commercial issues integrated into the World Law Congress which took place in February 2019, thus marking the first of many activities to be carried out jointly.

Euro Latam Lex will continue to focus on providing its partners with a network of professionals who respond to the international needs of its clients and on promoting the discussion of relevant issues in the world of law.

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