

Latin American Arbitration: Navigating the Pandemic

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Authors: [Jonathan C. Hamilton](#), [Rafael Llano](#), [Alvaro J. Peralta](#)

A decade ago, we declared the era of Latin American arbitration institutions had arrived. The institutions have evolved to become more robust but now face the challenge of the coronavirus pandemic. White & Case has surveyed how leading regional institutions are providing for continuity of services at a time of crisis.

Latin American arbitration institutions have become central to the growth of arbitration across the Americas. Almost a decade ago, the Inaugural Survey of Latin American Arbitral Institutions, published by the Institute for Transitional Arbitration with White & Case LLP, declared that the “era of Latin American arbitral institutions ha[d] arrived,” and concluded that “local and regional arbitral institutions have contributed to the impressive growth of arbitration in Latin America and will play a critical role in dispute resolution going forward.”¹

The first-of-a-kind Survey, edited by White & Case partner Jonathan C. Hamilton, demonstrated how the strengthening of legal frameworks for arbitration had given rise to dozens of local arbitral institutions, and that those institutions were heavily utilized by local companies and governments. The Survey also identified a trend toward greater use of local institutions for cross-border disputes, and complex proceedings involving multiple parties.

Over the years following the Survey, truly regional institutions have emerged and become increasingly relied upon for international as well as domestic disputes. These institutions have, in most cases, continued to develop robust infrastructures and deeper experience with difficult issues that arise in international arbitration. Factors contributing to their growing importance include the expanded range of services offered (such as mediation and conciliation services), the establishment of independent and sophisticated sets of arbitration rules, typically low administrative costs, a growing roster of local practitioners and the establishment of a local arbitration bar, as well as the development of modern facilities for hosting hearings. These institutions have also benefitted local markets through capacity building, training, and accreditation. As a result, local institutions have seen a rise in multilingual proceedings, multi-jurisdictional issues of law, and increasing reliance on different arbitral rules.

Notwithstanding the broad successes in the region, local institutions have faced inevitable growing pains and complexities. As assessed in *Challenges and Recusals of Judges and Arbitrators in International Courts and Tribunals*, for example, the potential for conflicts of interest have increased as more individuals have filled the ranks

¹ Institute for Transitional Arbitration, Survey of Latin American Arbitral Institutions published, at 5 (2011), available at <https://www.cailaw.org/media/files/ITA/Publications/arbitral-institutions-guide-dec.pdf>.

of arbitration to deal with an expanding docket of cases.² Such procedural challenges have been exacerbated by the challenges of regional corruption scandals which impact arbitration and its users and stakeholders.

Most recently, local institutions are now facing an unprecedented challenge to the administration of cases as a result of the coronavirus pandemic. How have these maturing institutions responded? With dexterity and efficiency. White & Case has surveyed regional institutions across fourteen jurisdictions, including Spain. The attached infographic demonstrates the prompt procedural adaptations developed by these diverse institutions to navigate the pandemic, including encouraging electronic-only filings and offering digital solutions for conducting hearings, reflecting the continued maturation of Latin American arbitration institutions. As a result, local arbitral institutions continue to be on the rise, despite ongoing challenges.

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² Hamilton, et al., *Arbitrator Challenges in Latin America*, CHALLENGES AND RECUSALS OF JUDGES AND ARBITRATORS IN INTERNATIONAL COURTS AND TRIBUNALS (Giorgetti, 2015).

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How are Latin American arbitral institutions responding to the pandemic?

		Administration	Pleading	Hearings
 Centro Empresarial de Mediación y Arbitraje (CEMA) medyar.org.ar ARGENTINA		Offices closed and all work conducted via phone and email.	Filings conducted electronically.	Online hearings available by videoconference.
 Centro de Conciliación y Arbitraje Comercial, Camara Nacional de Comercio de Bolivia (CAC) arbitraje.bo BOLIVIA		Offices closed and all work conducted via phone and email.	Filings suspended until further notice.	Hearings suspended until further notice.
 Câmara de Arbitragem do Mercado (CAM) b3.com.br/pt_br/b3/qualificacao-e-governanca/camara-de-arbitragem-do-mercado-cam/regulamentacao BRAZIL		Offices closed and all work conducted via phone, email, and online platform. Protocol published for electronic procedures.	Filings conducted electronically.	Online hearings available by videoconference.
Centro de Arbitragem e Mediação da Câmara de Comércio Brasil-Canadá (CCBC) ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/en/ar-39-2020/		Offices closed and all work conducted via phone, email, and online platform. Protocol published for electronic procedures.	Filings conducted electronically.	Online hearings available by videoconference.
Câmara de Arbitragem Empresarial de São Paulo (SP Arbitral) camarb.com.br/arbitragem/resolucoes-administrativa/		Offices closed and all work conducted via phone and email. Protocol published for electronic procedures.	Filings conducted electronically.	Online hearings available by videoconference.
 Centro de Arbitraje y Mediación de la Cámara de Comercio de Santiago (CAM Santiago) camsantiago.cl/publicaciones.html CHILE		Offices remain open. Phone and email communication encouraged.	Filings conducted electronically through the e-camsantiago system.	Online hearings encouraged. Encouraging suspension of hearings that cannot be held by videoconference.
 Centro de Arbitraje y Conciliación de la Cámara de Comercio de Bogotá (CACCB) centroarbitrajeconciliacion.com COLOMBIA		Offices closed and all work conducted via phone and email. Protocol published for electronic procedures.	Filings conducted electronically.	Online hearings available by videoconference.

		Administration	Pleading	Hearings
 Costa Rica	Centro de Conciliación y Arbitraje de la Cámara de Comercio de Costa Rica camara-comercio.com/sobre-el-cca	Offices closed and all work conducted via phone and email.	Filings conducted electronically.	Online hearings available by videoconference.
 Ecuador	Centro de Arbitraje y Mediación de la Cámara de Comercio de Quito ccq.ec/arbitraje-y-mediacion	Offices closed and all work conducted via phone and email.	Filings suspended until further notice.	In-person hearings suspended. Online hearings encouraged as needed.
 Mexico	Centro de Arbitraje de México (CAMEX) camex.com.mx	Offices closed and all work conducted via phone and email.	Physical filings required. Users must send them by email and courier.	Online hearings available by videoconference.
	Centro de Arbitraje de México (CAM) camex.com.mx/en	Offices closed and all work conducted via phone and email. Protocol published for electronic procedures.	Filings conducted electronically.	In-person hearings suspended. Online hearings encouraged as needed.
 Panama	Centro de Conciliación y Arbitraje de la Cámara de Comercio, Industrias y Agricultura de Panamá (CeCAP) cecap.com.pa/6303-2	Offices closed and all work conducted via phone and email. Protocol published for electronic procedures.	Filings conducted electronically.	Online hearings available by videoconference.
 Paraguay	Centro de Arbitraje y Mediación de la Cámara Nacional de Comercio y Servicios de Paraguay camparaguay.com/novedades	Offices closed and all work conducted via phone and email.	Filings conducted electronically.	Online hearings available by videoconference.
 Peru	Centro de Conciliación y Arbitraje Nacional e Internacional de la Cámara de Comercio de Lima arbitrajecl.com.pe/	Offices closed and all work conducted via phone and email.	Filings conducted electronically.	Online hearings available by videoconference.
	El Centro Internacional de Arbitraje de AmCham Perú amcham.org.pe/nota-de-prensa/centro-internacional-de-arbitraje-adopta-medidas-adicionales-para-el-estado-de-emergencia/	Offices closed and all work conducted via phone and email.	Filings conducted electronically.	Online hearings available by videoconference.
 Spain	Corte Española de Arbitraje (CEA) cearbitraje.com/#services	Offices closed and all work conducted via phone and email.	Filings suspended, subject to agreement between the parties and tribunal.	In-person hearings suspended until further notice, subject to agreement between the parties and tribunal.



URUGUAY

Centro de Conciliación y Arbitraje de la Corte de Arbitraje Internacional para el MERCOSUR de la Bolsa de Comercio del Uruguay

cncs.com.uy/noticia/centro-de-conciliacion-y-arbitraje/

Administration

Offices closed and all work conducted via phone and email.

Pleading

Filings suspended until further notice.

Hearings

Hearings suspended until further notice.



VENEZUELA

Centro de Arbitraje de la Cámara de Caracas (CACC)

arbitrajeccc.org

Offices closed and all work conducted via phone and email.

Filings suspended until further notice.

Hearings suspended until further notice.