ALAM
Associação Lusófona de Arbitragem e Mediação

Webinar Arbitration in Portugal

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Speakers

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Topic: Portugal as a Strategic Seat for International Arbitration

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Topic: The Portuguese Arbitration Law: History and Overview.

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Sofia Martins

Topic:
Commercial Arbitration Centres in Portugal.

Sofia heads the disputes practice at Miranda & Associados. Sofia has sat on the board of the Portuguese Arbitration Association since 2014. She has also been an officer of the IBA Arbitration Committee and co-editor of the IBA International Arbitration Guide since March 2017. She is a member of the ICC Arbitration and ADR Committee. Sofia is recognized by the most relevant publications, such as Chambers, Legal 500 and WWL. Sofia regularly participates in industry conferences as a speaker in Portugal and abroad, lectures in several courses in the leading law schools in Portugal, and frequently writes on arbitration-related matters. Sofia speaks Portuguese, English, Spanish and French.

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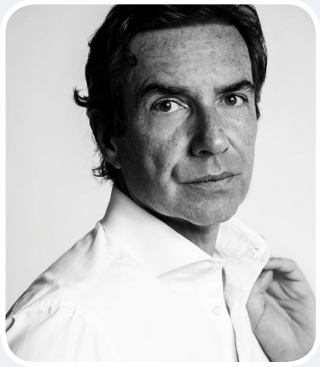

Moderator

Bruno Beato Ascenção (薛栢鴻)

Lawyer and Vice-President of ALAM

Bruno is a Lawyer in Macau, Portugal and Cross Border Lawyer in Mainland China, Arbitrator and Mediator. He holds a law degree from the University of Lisbon School of Law and post graduations in taxation and financial markets. His private practice mainly covers litigation, gaming, and corporate law.

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Dário Moura Vicente

Topic: Portugal as a Strategic Seat for International Arbitration

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Good evening. Thank you very much for the invitation to participate in this event. My compliments, in particular, to our colleagues from ALAM, our hosts, and my colleagues from Portugal, who will be co-speakers in this panel. I want to greet, moreover, all attendants from China and Macau who will be following this seminar and express the wish that their participation in this event will be useful.

The topic I was assigned in this event has the title "Portugal as a strategic seat for international arbitration". So, I will briefly discuss some of the features of arbitration in Portugal and why Portugal may be considered an arbitration-friendly venue. First, a taste of history. Arbitration has a long history in my country. It is not something that dates back just a few years. In fact, arbitration has a history of centuries in Portugal. It was already allowed in the middle ages in this country, which is not surprising, given that Portugal is Europe's oldest nation. The Portuguese State also has a long tradition of decentralization. And one of the forms of this decentralization concerned the administration of justice.

Justice was administered by state courts and arbitral tribunals, according to the Ordinances of our Kings Afonso, of the 15th century, Manuel, of the 16th century, and Filipe II, of the 17th century. But it was, in fact, in the 19th century that arbitration was more promoted, even at the constitutional level. Our first Constitution, which dates back 200 years, was approved in 1822, and it provided for the settlement of disputes through arbitration. The subsequent Portuguese constitutions of the XIX century did the same. Also, our first commercial code, dating back to 1833, adopted arbitration as a possible means of dispute settlement among merchants. In the 20th century, more precisely in 1986, Portugal endowed itself with its first autonomous law on arbitration. It was a law that lasted for 25 years, and it was generally deemed as a good one, a law that was in line with the country's needs at the time and was supportive of arbitration and technically well devised. In 2011, a new law was adopted, which is currently in force

in Portugal. You will find an English translation of that law on the Portuguese Arbitration Association's website, www.arbitragem.pt.

This law replaced our law from 1986. It is a somewhat more detailed law than its predecessor and is concerned with being in line with the United Nations Model Law on Arbitration. My colleague Filipe Vaz Pinto, who will speak after me, will give you more details on the Portuguese law of 2011. I want to stress why this law and several other factors facilitate arbitration in Portugal. First, is has a favourable geopolitical, legislative, and institutional setting, which I will explain in a few minutes. Secondly, there is a supportive infrastructure from the point of view of the Portuguese judiciary and the arbitration institutions that exist in Portugal, a topic that will also be dealt with in more detail by my colleague Sofia Martins. And finally, a well-prepared legal profession also exists in Portugal, which is indispensable for appropriate arbitration in any country.

I will start with the first of these three topics: the geopolitical, linguistic, and legal setting of arbitration in Portugal. As is undoubtedly well known by all those listening to me, Portugal is a relatively small country, with 10 million inhabitants, but one that has traditionally a very considerable openness to the World in general and to commercial exchanges with other countries in particular.

Portugal is also well known as a Member State of the European Union, meaning that goods, services, capital, and people may freely move across borders within the European Union. Still, it is a member of several other international organizations promoting trade and cultural changes among diverse peoples. I want to mention in this context, in particular, the Community of Portuguese-Speaking Countries, which includes several countries and territories that have Portuguese as their official language from Brazil to East Timor; this, of course, creates a favourable environment for the conduct of arbitration in this country.

Another relevant topic from my point of view concerns language issues. Portuguese is currently one of the most spoken languages around the globe and undoubtedly the most spoken language in the southern hemisphere. It is spoken by more than 200 million people around the World, and it is, therefore, a powerful means of communication, notably among jurists. And that is one particular reason why Portugal can be considered a suitable venue for international arbitration. Of course, Portuguese jurists are today primarily versed in not only their native language but also foreign languages, notably English and Spanish.

It is easy, therefore, to find specialists in arbitration that are fluent in several languages in this country. Of course, this is something that facilitates international arbitration in Portugal. One other aspect that I want to highlight is the relevance of Portuguese law as the foundation of what one may call a legal community that comprises countries from all around the globe.

Portuguese law has influenced the legal systems of a good dozen other countries, notably Brazil, the five Portuguese-speaking countries in Africa, and several countries and territories in Asia. This is, among others, the case of Macau, which, after the handover of the administration of this territory to the People's Republic of China in 1999, preserved in essence what was Portuguese law in force at the time. This is something that is stipulated in the Treaty between Portugal and the People's Republic of China concerning the government of Macau. It is a duty that the People's Republic of China took upon itself to keep Portuguese law in force for the 50 years following the handover of Macau's administration to Chinese authorities.

So Macau's law is very similar to Portuguese law. It has been modernized, and you may find more updated rules in Macau civil and commercial law in some aspects than the rules that are in force in Portugal. But the root of the legal system is, in fact, Portuguese law. So, although a small country, Portugal has many connections throughout the World, which enhance its interest as a possible venue for our international arbitration.

I would now like to come to the legal framework governing arbitration in Portugal. I've already briefly referenced our current domestic law on arbitration. The basis of our law is a statute dating back to 2011, the Law on Voluntary Arbitration. But there are several other statutes concerning arbitration enforcing Portugal, notably relating to public law arbitration, which is possible also in this country. Disputes between private individuals or companies and the State or state-owned agencies may be settled by arbitration, including disputes concerning fiscal matters, which is not so common in other countries. We have a relatively comprehensive legal framework concerning arbitration in this country, which applies in several areas of the law, not just for private or commercial law disputes, but also for public law disputes.

But our legal framework concerning arbitration does not consist exclusively of internal or domestic sources.International conventions are also a part of our legal framework, as, according to our Constitution, they are part and parcel of our legal system once they have been approved, ratified, and published in our official journal; this is the case, notably, of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which Portugal is a Party. This is a crucial aspect because 170 countries are parties to this Convention, and this means that awards from those other countries may be enforced in Portugal, and awards rendered in Portugal may be enforced in those other countries. And the same is true in respect of the Washington Convention on the Settlement of Disputes Concerning Foreign Investments. This Convention is also enforced in Portugal. Portugal is a Member State of ICSID, and disputes concerning investments may be settled through arbitration if a company or an individual residing or seated in Portugal, for example, is an investor in a foreign country and vice versa. Portugal also has a considerable number of bilateral agreements with other countries, notably with Portuguese-speaking countries, that provide for arbitration as a dispute settlement mechanism. And Portugal is a party to a few dozen bilateral investment treaties which provide for the settlement of investment disputes through arbitration. The number of countries covered by those bilateral treaties is over 100. So a critical and comprehensive network of treaties providing for arbitration is enforced in this country, and this is important for companies that may wish to structure their investments, for example via Portugal, to benefit from those bilateral treaties.

Regarding our basic law on arbitration, which will be developed, as mentioned by my colleague Filipe Vaz Pinto, I point out one essential feature of this law, which is the favor arbitrandum, the favouring of arbitration that underlies this law. This law is inspired by the basic idea of promoting and facilitating the settlement of disputes via arbitration. This is very clear, for example, in the provisions of this law that define the topics that may be the subject matter of the arbitration. In principle, all disputes involving economic interests may be settled by arbitration in this country. Arbitration agreements have a very favourable treatment in this law in that, on the one hand, they are independent of the main contracts of which they form part, so the nullity of the contract does not entail the nullity of the arbitration clause that is included therein. So, suppose the issue of the validity of the arbitration agreement is raised. In that case, this issue may be decided under one of three possible laws: the law chosen by the parties to apply to the agreement itself, the law that governs the contract in which the agreement is included, or Portuguese law. So whichever is more favourable to the agreement's validity is the law that will apply to this topic.

Parties can also choose with ample freedom the rules that apply to arbitration proceedings conducted in Portugal and the substance of disputes subject to arbitration in Portugal. So party autonomy is highly valued by this law. And this is another feature that is very relevant when considering Portugal as a venue for arbitration. Another important topic concerns the challenge of arbitral awards rendered in Portugal. This is possible through an annulment proceeding that should be commenced in a higher court, a court

of appeal. The possible grounds for annulment of arbitral awards are nevertheless very strictly defined in this law, particularly in respect of international arbitration.

Article 55 of our law is somewhat restrictive, for example, in what concerns the possibility of invoking the public policy exception if international arbitration is conducted in Portugal and the award is not meant to be enforced in this country. In those cases, Portuguese international public policy may not be invoked against an award that is based on foreign law. This is also an essential feature of this law which demonstrates its openness to international arbitration.

Now, I would like to briefly reference the institutional infrastructure that Portugal possesses in respect of arbitration. This institutional infrastructure is composed of arbitration institutions. We have more than 30 arbitration centres in Portugal, and Sofia Martins will develop this issue in her talk. But it is essential to point out in this respect that international arbitration centres that wish to promote arbitrations having their venue in Portugal are not subject to the need for specific permission for that purpose. So it is possible to conduct international arbitrations in Portugal, for example, under the aegis of the ICC, without that institution having to be specifically allowed by the Portuguese Government.

But the institutional infrastructure that applies to our arbitration, including our international arbitration, is also comprised of state courts. State courts are vital as entities that support arbitral tribunals in several topics, from the appointment of arbitrators to considering requests for the enforcement of awards. Now, the most important aspect we should mention in this respect is the arbitration-friendly attitude of Portuguese courts. And more particularly of the Portuguese courts of appeal, which, as I said a few moments ago, are competent to decide requests for the annulment of arbitrary awards. Very few annulments of arbitral awards take place in this country. Portuguese case law on this topic is very favourable to arbitration, and Portuguese courts are not prone to invalidate awards without very serious reasons for this to happen.

Finally, a word concerning the legal profession, particularly the arbitrators that can conduct proceedings in this country. Our law is very liberal, also in this respect. There are no particular requirements regarding, for example, an arbitrator's nationality or academic profile so that it may be appointed as such. In Portugal, of course, arbitrators have to be impartial and independent, and there is whole case law and legal doctrine on this topic. But Portuguese law is not particularly restrictive in this respect. On the contrary, it leaves a lot of freedom to the parties concerning the appointment of arbitrators in this country. They may be Portuguese nationals or foreigners and do not have to be lawyers in order to be appointed. It is noteworthy that the Portuguese arbitration association has adopted a Code of Ethics. The most recent edition dates back to 2020, and this code of ethics has sought to align its rules with the International Bar Association's guidelines on conflicts of interest in international arbitration. So we have sought to align with international standards in this respect.

The Portuguese arbitral community is organized under the Portuguese Arbitration Association, which has over 250 members. It is a relatively active entity that seeks to promote arbitration, encourages debate in respect of arbitration, and provides training for people who wish to undertake arbitration as a professional activity. I want to conclude that Portugal is an arbitration-friendly venue, and that it possesses the legal, institutional and professional infrastructures needed to adequately conduct arbitrations. So, welcome to arbitration in Portugal.

Thank you very much for your attention.

Filipe Vaz Pinto

Topic: The Portuguese Arbitration Law: History and Overview.

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Thank you very much. I want to start the course by thanking all the event organizers, and in particular, ALAM and Bruno, who was the driving force behind this timely initiative. Thank you, thank you very much. It's a great pleasure to be here with you today. So, the primary purpose of my short presentation today is to give you a brief overview of Portuguese arbitration law. It is not possible, of course, to provide a comprehensive review of the law in such a short period. For this reason, I will highlight eight key distinctive features of the Portuguese arbitration law in contrast with the UNCITRAL Model Law and, to some extent, Macanese law.

But before doing so, however, I will first provide some helpful information concerning the background of Portuguese arbitration law. I will finalize, if I have the time, with four major trends in Portuguese arbitration case law.

As Professor Dário Moura Vicente said, Portugal has an ancient tradition concerning arbitration. Arbitration has been recognized for many centuries, and the current law, dated 2012, is now celebrating its 10th Anniversary. It was prepared in relatively unusual circumstances because it relied heavily on cooperation with civil society and specifically with the Arbitral Community, represented by APA, the Portuguese Arbitration Association. In fact, in 2009, the Portuguese Government asked the Portuguese Arbitration Association to prepare the project of a new arbitration law inspired by the UNCITRAL Model Law, taking into consideration recent reforms of arbitration laws in other countries. The stated purpose of this initiative was to make Portugal's legal environment more arbitration-friendly, with the objective precisely of increasing Portugal's competitiveness as a seat for international arbitrations, notably those involving parties from Portuguese-speaking countries and territories.

APA gladly accepted this challenge, and in 2009 and 2010 prepared two successive projects of a new arbitration law based on the UNCITRAL Model Law and on an extensive comparative analysis of recent law reforms in other leading jurisdictions. The APA project used as a reference the Model Law as modified in 2006, reflecting the new provisions on interim measures and preliminary orders. With this option, the drafters wanted to increase the certainty in the application of the law, allowing tribunals and courts to benefit from foreign legal sources, including case law and scholarly writings from other jurisdictions.

The project further aimed to insulate arbitration law from the specificities of Portuguese domestic procedural law. However, because of the political instability of the time, it was only in 2011, in the context of a severe financial crisis that affected Portugal back then, that the required political conditions to approve the new law were met. At the time, as some will remember, Portugal signed a Memorandum of Understanding with the European Commission, the International Monetary Fund and the European Central Bank providing for specific economic policy conditions to obtain financial assistance.

One of those conditions was precisely the approval of a new arbitration law, which created the necessary political momentum to approve a new law. To that effect, the Government resorted to the last project that had been previously prepared by APA in 2010 and submitted it for discussion and approval by the Parliament. The Government introduced only some selected modifications, particularly, as we will see in a moment, concerning the introduction of public policy as grounds for the anulment of arbitral awards, which was absent from APA's project. The new law was approved by the Parliament as proposed by the Government without any modifications, and it entered into force in March 2012 and thus the 10th Anniversary.

Now, considering this specific background, the project prepared by APA in May 2010 assumes a critical relevance to understanding the solutions that were finally adopted because, in essence, this project is the ultimate source of the Portuguese Arbitration Law.

Portuguese law is thus the result of an extensive debate and peer review process, and it is the result of the efforts of the Portuguese Government to equip Portugal with a more competitive, effective and modern arbitration law, rendering the country truly arbitration-friendly. Despite its overall proximity with the Model Law, the Portuguese Law has specific parts and deviations from that matrix, reflecting the objective of considering the experience gathered under the preceding Portuguese arbitration Law which, as Professor Vicente said, was a good law at the time. Further, because it was prepared between 2009 and 2012 it could take into account later developments that occurred in other key jurisdictions.

We now turn to the eight selected key features of Portuguese law.

The first important point refers to the interplay between domestic and international arbitration. Article 61 of the Portuguese Law enshrines the territorial principle, establishing that it applies to all arbitrations in Portugal.

This rule generally means that the law applies to all arbitrations with their place or seat in Portuguese territory. The law also applies to the recognition and enforcement in Portugal of awards rendered in arbitrations located outside Portugal. Importantly, Portuguese law applies equally to domestic and international arbitrations in Portugal, with Articles 50 to 54 providing specific rules that apply only to international arbitrations. How do we know when we come across one? They are defined as those that implicate the interests of international

trade in line with the criteria adopted by the French Code of Civil Procedure. The criteria adopted by the Portuguese law is thus different from that of the UNCITRAL Model Law. An arbitration is international if it implicates the interests of international trade, irrespective of the existence of formal elements of "internationality", typically the location of the Parties' places of business in different States, the place of arbitration, or the place of performance of the obligations separate from the Party's place of business. Portuguese law did not adopt formal criteria but rather a substantive approach based on international trade interests.

There are five specific rules applicable to international arbitration that are worth mentioning, as they reinforce the pro-arbitration stance of Portuguese Law.

First, Article 50 provides that States and State-owned entities are estopped from invoking their domestic laws to object to the arbitrability of the dispute or their capacity to enter into the arbitration agreement.

Second, Article 51 deals with the substantive validity of the arbitration agreement and adopts a clear pro-validity stance. It determines that from the perspective of Portuguese law, the arbitration agreement will be considered valid if such validity results from at least one of the three following laws: the law chosen by the Parties, the law applicable to the merits, or the Portuguese law.

Third, Article 52 governs the law applicable to the merits and sets forth the principle of party autonomy. Parties may freely choose the applicable law or authorize arbitrators to render judgments ex aequo et bono. In the absence of the Party's choice, the Tribunal shall apply the substantive law with the closest connection to the object of the dispute. This also represents a departure from the rule outlined in the UNCITRAL Model Law, which the mechanism law also adopted, according to which, in the absence of the Party's choice, the Tribunal shall apply the law determined by the conflict of law rules which it considers to be applicable. Article 52, no 3 further provides, similar to the UNCITRAL Model Law and Macau's Law, that the Tribunal must consider the contract and the relevant commercial usages.

Fourth, Article 53 excludes the possibility of an appeal on the merits to State courts in international arbitrations, accepting instead that the parties provide for an arbitral appeal, that is, an appeal to another arbitral Tribunal, but only under the condition that the Parties directly regulate the terms of such appeal. This means that, in international arbitrations, it is not possible for the Parties to opt-in to any form of appeal to Portuguese courts.

Finally, and this is the fifth feature of specific rules applicable to international arbitration, article 54 deals with international public policy in international arbitrations seated in Portugal, where the law applicable to the merits is not Portuguese law. This provision sets forth that, in those cases, the Arbitral Award may be set aside not only with the grounds generally provided for in domestic arbitrations but also if the enforcement in Portugal produces a result that is manifestly incompatible with international public policy.

In this respect, the current Macanese Law adopts a so-called purely monist approach. It does not distinguish between the rules applicable to domestic arbitration and the rules applicable to international arbitration and does not provide for special rules applicable only to international arbitration, and this is an essential difference between the two laws.

This is the first key feature.

I will now turn to the second one, arbitrability. Portuguese law provides that the Parties may refer to arbitration any dispute concerning interests that may be converted into money. This is what we call "patrimonial interests". In addition, the Parties may also submit to arbitration disputes involving interests that may not be converted into money if the rights in dispute can be disposed of by the Parties. This means that disputes concerning available rights are always arbitrable, and those concerning unavailable rights are also arbitrable if they refer to interests that may be converted into money. This is a double criterion that is inspired by other laws, in this case, Swiss law and German law, and seeks to end a discussion that, to a large extent, was specific to the Portuguese jurisdiction on whether or not a dispute involving the application of a mandatory material rule would be inarbitrable since mandatory rules are unavailable and cannot be varied by the Parties in this respect.

In contrast, Macau's law adopts a single criterion similar to the one that existed in the previous Portuguese Law: availability of rights. In reality, Article Six of Macau's Law refers that it is possible to submit to arbitration any matter that a party may settle. Generally, parties may settle in respect of available rights.

I now move to the third key feature. The Portuguese law, like Macau's Law, adopts a reinforced or enhanced version of the negative effect of the competence-competence principle by adding the word "manifestly" to the formulation that existed in the Uncitral Model Law. In fact, according to Portuguese law, a court before which an action is brought in a matter which is the subject of an arbitration agreement shall decline jurisdiction, and I quote, «unless it finds that the arbitration agreement is manifestly null and void, is or become inoperative, or is incapable of being performed». The solution was inspired by French law, which is also reflected, as I understand, in Article 14 of Macau's Law, establishings a qualified priority of the Arbitral Tribunal to decide jurisdiction issues. State courts can perform only a minimal prima facie review of the existence, validity and applicability of the arbitration agreement and can only affirm jurisdiction if the inexistence, invalidity or inapplicability of the arbitration agreement is clear and manifest, without, in general, the need to produce any additional evidence.

Portuguese law further contains additional protection to the competence-competence principle by prohibiting any action before state courts to discuss autonomously an arbitration agreement's existence, validity or applicability. This provision seeks to bear or prohibit the so-called anti-arbitration injunctions in Portugal. It is generally not possible to ask a Portuguese Court to determine that arbitration should not proceed.

And with this, I pass from the third to the fourth key point I would like to raise today: complex arbitrations. For the most part, the UNCITRAL Model Law is silent on the problem of complex arbitrations, that is, arbitrations involving more than two parties or more than two contracts differently. Portuguese law directly addresses these situations in multiple provisions.

On the one hand, Article 11 of Portuguese law contains rules for appointing arbitrators in the case of a plurality of claimants or a plurality of respondents, establishing a solution inspired by the famous Dutco doctrine. Dutco, as you may know, was a famous case decided by French courts, which in the end, decided that in a situation of a plurality of parties, if either the claimants or the respondents do not agree on a joint nomination of the arbitrator of their choice, the choice of the arbitrator may be made by the state court or the appointing authority. In such case, however, the state court or appointing autority may

also appoint the entire Tribunal provided that it is shown that the parties that failed to make the joint nomination had a somewhat conflicting interest in respect of the dispute.

There must be a legitimate reason for the plural parties to fail to reach an agreement on the arbitrator to restrict the opposing Party's right to appoint an arbitrator. This provision thus seeks to strike a balance between the principle of equal participation of the parties in the constitution of the Tribunal, on the one hand, and the right that each Party has to appoint the arbitrator of its choice, on the other hand. Macau's law also deals with this problem, in Article 24, in what appears to be substantially equivalent terms.

On the other hand, Article 36 of Portuguese law also addresses situations of interventions of new parties in the proceedings. From a jurisdictional standpoint, the law restates the general principle that only parties bound by the arbitration agreement may be admitted in the proceedings. Then, concerning the joinder, it is necessary under Portuguese Law to distinguish between ad hoc arbitration, on the one hand, and institutional arbitration, on the other hand.

In ad hoc arbitration, the intervention of a new party is admitted only after the constitution of the Tribunal, provided that the third party accepts the composition of the Tribunal. In practical terms, this means that joiner in ad hoc arbitration is only permitted with the new party's consent, which renders this possibility relatively rare.

In institutional arbitration, the intervention may also be admitted before the constitution of the Tribunal and irrespective of the new party's consent, but only if the applicable rules respect the principle of equality regarding the selection of arbitration of arbitrators. The intervention of a new party is subject to the decision of the Tribunal, and Article 30 contains a list of examples of situations where the intervention should ordinarily be accepted. Parties may vary this regime, provided that the principle of equality is respected. Neither UNCITRAL Model Law nor (apparently) Macau's law provides any specific regulation on this point.

I turn now to the fifth point. Unlike UNCITRAL Model Law and most laws of other jurisdictions, Portuguese law provides that, as a general default rule, arbitrations are confidential. More specifically, the law provides for a general obligation on the parties and, if applicable, on the institutions, to keep confidential the information they obtain and documents they became aware of through the arbitral proceedings.

This confidentiality obligation ceases where the publication of otherwise confidential information is legally required or necessary to protect a Party's rights. Article 47 of Macau's Law also contains a confidentiality principle similar to Portuguese law.

Sixth, Portuguese Law, like Macau's Law, contains an express provision on arbitrators' fees and expenses. Article 17 establishes in particular that in the absence of an agreement between the parties and the arbitrators, directly or via reference to institutional arbitration rules, the arbitrators have jurisdiction to determine the amount of their fees and expenses. However, because there is an evident, inherent and objective conflict of interest in these decisions, this specific decision taken by the Tribunal is subject to appeal to state courts. State courts can and do frequently review the decisions made by Tribunals regarding their fees where they cannot reach an agreement with the parties. Macau's law also determines that in the absence of an agreement, the arbitrators may define their fees that stipulate that such definition must be made following the fee schedule of one of the arbitral institutions in Macau.

Seven, the term or deadline for a decision. Portuguese law establishes a maximum period of twelve months, from the date of the acceptance of the last arbitrator, for the Tribunal to render its final award.

However, the Arbitral Tribunal itself may extend this term for additional periods, depriving this provision of any substantial meaning. Only by agreement of the parties can they object to an extension of time. For this reason, the UNCITRAL Model Law and Macau's Law do not include an actual term for the Arbitral to render the decision, and this difference is now more apparent than real.

Eight, and this is the last key point that I want to highlight, today Portuguese law adopts a somewhat unconventional approach concerning public policy as a ground for annulment of an arbitral award. While UNCITRAL Model Law mandates the setting aside of an award in conflict with the public policy of the State, Portuguese law purported to narrow this ground to the principles of Portugal's international public policy. This encompasses exclusively those fundamental legal principles that the State will not surrender in any circumstances, even when the matter is governed by foreign law. This was one of the most debated issues during the drafting of the Portuguese law or the projects within the Portuguese Arbitration Association, with some of the drafters advocating for the non-adoption of public policy as a ground for setting aside the award, as the previous law also did not provide.

So, while other drafters defended that the Portuguese law should adopt Portugal's internal public policy as a ground foreign element in line with the UNCITRAL mobile law and most other jurisdictions, the final solution reflected in the law was introduced by the Government. It represents an attempt to achieve a compromise between these two opposing views. The law adopted the conflict with public policy as an anulment ground but adopted or tried to adopt a seemingly stricter concept under the assumption that "principles of Portugal's international public policy" represent a subset of Portugal's public policy. This option would limit the degree of control by state courts vis-a-vis the control admitted by the UNCITRAL Model Law. However, this stricter concept of international public policy needs is not well designed for the control of domestic awards, and some authors propose an extensive interpretation in line with the UNCITRAL Model Law. In this respect, Macau's Law followed closely UNCITRAL Model Law, establishing that an award rendered in Macau may be set aside if the annulment court finds that the arbitral award breaches public policy.

I will quickly identify the four main trends of Portuguese case law as they illustrate how it is being applied in practice.

First, Portuguese courts have applied the negative effect of the competence-competence principle strictly, establishing a high threshold to accept jurisdiction in cases where a party seeks to bring a claim before the Court that appears to be subject to an arbitration agreement.

Second, Portuguese courts have also decided many challenges to arbitrators on the grounds of lack of independence and impartiality. Courts have generally employed the correct analytical tools to review independence and impartiality requirements, frequently referring to the IBA Guidelines on Conflicts of interest in international arbitration, even if stating that these are not legally binding. The outcome of the cases naturally is very fact sensitive.

Third, and as Professor Vicente also referred, courts are generally very cautious when seized of requests to set aside arbitral awards. Arbitral annulment actions are very rarely successful.

And fourth and last, Portuguese courts routinely recognize foreign arbitral awards but also verify such awards' conformity with the Portuguese State's international public policy. And with this, I reached the end of my time. Of course, much more could be said, but I hope this allows you to have a more general overview of Portuguese law and I remain at your disposal for any debate that ensues.

Sofia Martins

Topic: Commercial Arbitration Centres in Portugal.

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Well, thank you very much for the introduction. Like the previous speakers, I want to thank the organization for the opportunity to be here today and share some views about arbitration in Portugal.

The topic that I'm going to address, as Professor Dário Moura Vicente mentioned, is institutionalized arbitration in Portugal or commercial arbitration centers in Portugal, which is a narrower category. So both Dario and Filipe have, to a certain extent, walked you through the history and overview of the Portuguese arbitration law, so I'm not going to elaborate too much on that. Suffice to say that modern arbitration as we know it today is relatively recent in Portugal, due also to the recent history of Portugal. As you all know, or probably all know, during the 20th century, Portugal was subject to a dictatorship that only ended in 1974, and arbitration did not thrive under this regime. And so when we look at other developed jurisdictions in terms of arbitration which saw steady growth and development throughout the 20th century, this did not happen in Portugal essentially for this reason.

For the same reason, institutionalized arbitration also did not thrive during this period. And it perhaps is precisely for this reason that the purely domestic market still has some resistance to institutionalizing their cases. That said, in recent years, and especially since the enactment, not only but especially since the enactment of the 2012 Arbitration Law, some institutions have successfully attempted to revert this tendency.

So I would begin by setting out the legal framework for commercial arbitration centres. As you know, the first arbitration law in Portugal dates back to August 1986. Later that year, Decree-Law 425/86 was enacted in December, recognizing arbitral institutions for the first time in Portugal. This statute regulated how arbitral institutions, which had been foreseen in the 1986 Act for the first time, would be

allowed to operate. The statute remains in force, unaltered to this date, although recently, we have some indications that the current Government may wish to revise this old statute.

This law says that any entity that wishes to administer arbitrations must request prior authorization from the Ministry of Justice, setting out the reasons that justify its intention to administer cases and outlining the specific scope of arbitrations that it wishes to administer. And then in its decision to grant or not the authorization, the Ministry of Justice will take or should take into consideration, on the one hand, how representative the institution is and also its suitability towards the activity it wishes to carry out.

Several elements must be attached to the application, a presentation of the history of the entity, bylaws, report of the organization's activity in the preceding years. As I said, some aspects of bylaws, draft regulations for conducting proceedings, draft rules on costs, a roster of arbitrators and their respective qualifications, and several other formalities must be complied with.

Then every year, the Ministry of Justice has to publicize the list of authorized entities and, as the case may be, the general or specialized scope of their activity.

This authorization may be revoked at any time if any fact occurs that evidences that the institution in question no longer has the technical or suitability solutions to continue administering arbitrations. And naturally, any entity that administers arbitrations without this authorization can incur an administrative offence and a monetary penalty.

So this list, as I said, is published on the Ministry of Justice website. It comprises centres authorized to administer commercial arbitration, which is our focus today, and others devoted to other types of arbitration, such as consumer arbitration, sports arbitration, intellectual property, and tax. Currently, the list has a total of 37 centres authorized to administer arbitrations, although some are obviously in specific areas and not necessarily commercial arbitration.

That said, it seems a lot, but many of these centres, or most of them, the ones allegedly devoted to commercial arbitration, do not have a very relevant activity. And in this regard, I would like to make a specific reference to the two leading institutions, the Arbitration Center of the Portuguese Chamber of Commerce and Industry, based in Lisbon, and the Commercial Arbitration Institute, based in Porto.

Now historically, in 1987, immediately after the first law of voluntary arbitration was enacted, the Lisbon and Porto Commercial Associations applied for and obtained the first authorization to jointly administer arbitrations.

Later on, in 2005, both associations requested autonomy to the center, which was granted, and the scope of disputes was also broadened to include economic and public and administrative disputes, both domestic and international. Unfortunately, at the end of the year of 2005, the two associations decided to go their separate ways, and this gave rise to the existence of two arbitration centres, the Lisbon one, which is the arbitration centre for the Portuguese Chamber of Commerce and Industry and the Institute for Commercial Arbitration, based in Porto.

Despite the formal separation, these two centres are still the main Portuguese arbitration institutions administering commercial arbitration. However, the arbitration centre of the Portuguese Chamber of Commerce and Industry, based in Lisbon, is, according to general market perception, the market leader.
Unfortunately, except for this centre, arbitration

centres typically do not make their statistics available. Still, as I said, the market perceives clearly that the Lisbon centre is the leading centre. And this is why I will focus a bit of my presentation on this specific institution, mainly because it has been the driving force as regards institutionalized commercial arbitration in Portugal and its rules, as amended from time to time, have been the source for most other rules of other competing institutions. It has also been a pioneer in implementing international best practices in Portugal. It is also responsible, since 2007, for the organization of, what we could say, is the major arbitration-related event in Portugal.

Now, its first rules date back precisely to 1987, when it was created, and the two institutions were still together, there was a minor amendment in 1992 and in 2005, and after separating both entities, the Chamber revised the 1987 rules. Now, these would be fully repealed and replaced by a new set of rules in 2008, and although these rules were already more modern at the time, they were still very close to domestic litigation practice, let's put it that way.

Now the new voluntary arbitration law was enacted in late 2011. As we've mentioned, it came into force in March 2012 and the wish to internationalize the Center's activity incorporating international best practices led to the total revision of the 2008 rules, giving way to the so-called 2014 rules, which came into force in March 2014. At the same time, and in parallel, there was a thorough revision to the roster of arbitrators of the centre, bringing in a new generation of arbitration practitioners. And last year, in 2021, these 2014 rules were slightly revised, and I will touch upon the main features in a moment.

So I will touch upon precisely the main features of these two fundamental revisions to the Rules, given their significance.
So, in 2014, for the first time, the express duty of independence and impartiality was introduced. The 1986 Law did not contain this express duty, but the 2012 law did, so the rules went along with the new law and expressly provided for this.
Also, inspired by the Code of Ethics prepared by the Portuguese Arbitration Association, the Center enacted the code of Ethics, which is very similar and applies to all arbitrations administered by the Center. As Filipe mentioned, interim relief was one of the novelties of the arbitration law. From that moment onward, the Rules expressely allowed arbitrators to grant interim measures. This was subject to debate before the enactment of the law and, for the first time in Portugal, provided for the possibility of recourse to an emergency arbitrator.
The default rule in terms of the number of the Constitution of the Tribunal was inverted. So from the three as a default rule, the rule changed to one, obviously with exceptions, and depending on the agreement of the parties. An express rule towards neutrality was also included in these rules. So in international arbitrations, the chairperson of the centre, who was a default appointing authority in cases administered by the centre, should consider if it's convenient to appoint a chair of a nationality different from that of the parties.

There were also several provisions regarding appointments in case of multiple parties in line with what Filipe explained, and also third-party jointer and consolidation, which is not in the law. Still, the rules of the centre allow for consolidation.
Another important feature was that a rule was written into the 2014 Rules regarding the publication of awards involving the State or public entities, which had to be publicized on the Center's website. Later on, the law would come to impose this obligation as well. But the Centre was, in fact, a pioneer in establishing this rule.

As I mentioned last year, there was a further revision. It did not alter the main structure of the 2014 Rules. Still, it did include some clarifications

and novelties once again intended to bring the rules in line with international standards and current practices. So, first of all, there was a clarification regarding interim measures: Arbitral tribunals may also issue preliminary orders. The possibility was already in the law. The rules needed to be clarified, so this was done.

The rules now contain a duty of the parties to inform of the existence of third-party funding when applicable.

There were also some adaptations related to the express possibility to conduct virtual hearings, obviously in the wake of the Pandemic. Also, the possibility for the Tribunal to take the appropriate measures if and when faced with a situation in which a change of counsel can create a case of conflict of interest with any member of the Tribunal. An intesresting possibility that is not seen yet in many rules, but is allowed by some institutions, is for the Tribunal to enable amicus curiae or third parties to intervene in the proceedings in some instances. Also, the possibility to request the early dismissal of claims or defences, an express mention to the limitation of liability of the arbitrators and also of the members of the board and employees of the centre itself, and an express mention of the fact that the counsel's legal fees or legal fees of representation are to be considered when determining the cost of arbitration, which needed to be clarified under the previous rules.

And in 2021 as well, and I will not go into the details, you can consult all this on the centre's website if you wish, and I believe they're all in English as well, there were two other specific sets of rules enacted. One for company disputes, so we're talking not about the typical shareholders' dispute, but disputes between the company itself and its shareholders, or between the company and members of corporate bodies, and so forth, and also a specific regulation for the so-called pre-contractual administrative disputes.
Meanwhile, as I said, 2014 operated this big revolution, and shortly after there were other documents prepared by the centre which go to show the evolution and how aligned with international best practices the centre has become in the last years.

Basically, in 2016, the centre also enacted fast-track arbitration rules. So there is a set of rules that applies explicitly to so-called fast track arbitration, typically, since the 2021 revision, for cases below €400,000. There are certain exceptions, but these rules are there for those who wish to have a speedier process and cheaper process in terms of fees.

The second elemen,t which ties into the importance the centre has given to the issue of transparency, was the publication by the centre of the criteria that it follows when appointing arbitrators in arbitrations administered by the centre and to touch upon the significant cornerstone that there should be the participation of the parties.

And so, there is an interactive procedure towards the appointment.

And the third significant document, also in 2016, was creating a specific set of rules for appointment challenges and replacing arbitrators in Ad Hoc arbitrations. So besides administering arbitrations, the centre nowadays can act as an appointing authority naturally for a given fee, and there is a specific regulation that addresses how the centre does this.

Now, to finalize my presentation, I would like to share a very brief presentation with you with some statistics on arbitration in Portugal because it's the only one that indeed does provide some statistics, and I thought it was helpful to prepare this in this way because just dumping numbers would be a bit boring.

So in terms of new cases, as you can see in the first slide, the Center's caseload was as normal relatively low in its early stages. The first three cases came about in 1990. So three years after the centre's creation. Steady growth only began from 2000 onwards. As you may see, in 2012 there was an abrupt increase to 67. But let me explain that this was a bit exceptional because this was the year when a specific statute on mandatory arbitration related to patents in generic medicine cases was enacted. And so this was an excpetional number. That said, from then onwards until 2014… So there was a slight increase in 2013 and 2014 from then on, and until 2017, there was a bit of a slump. Local practitioners have attributed this to the severe crisis that struck Portugal in 2011 and 2012, and the consequent lack of transactions resulting from that crisis situation. But since then, as you may see, the number of cases has been steadily rising. It's relatively small if we consider it or compare it to other international institutions. However, as I mentioned, modern arbitration is relatively recent in Portugal. Portugal is a small country with only 10 million inhabitants.

Its economy is not comparable to certain other European countries. And most arbitrations, not all, but most arbitrations still take place in Portugal today are domestic cases, or at least in some way related to Portugal. And as I mentioned, some practitioners are still a bit wary of proceeding within institutionalized arbitration, a tendency that the centre has tried to invert since 2012. There's not a slide on this, but the average duration of cases administered by the centre is around a year and a half. It was in 2017, and apparently, now it's slightly lower.

In the next slide, you can see the evolution since 2017 in terms of the number of parties, which appears to confirm a worldwide tendency of the rise of multiparty arbitrations. Another interesting piece of information concerns the number of public entities involved in cases administered by the centre since 2017. Although there has been some decrease, no doubt public entities represent a significant number of parties. This next slide shows you the percentage of cases in which a sole arbitrator was appointed since 2017 and also appears to evidence an inevitable evolution from the traditional three-member Tribunal, especially considering that only since 2012, the default rule, became that of a sole arbitrator. As regards the Constitution of the Tribunal, the Center's intervention remains minimal, as you may confirm in this line, although in the past year there was some increase. One interesting piece of data is the significant rise in foreign parties participating in arbitrations administered by the centre, especially in the last two years. So there is a substantial difference in the previous two years. And finally, to give you an idea of the types of disputes that have been handled, it appears that most of the disputes relate to concession agreements, construction contracts, corporate disputes, and purchase and sale agreements.

And to conclude, the situation of arbitration centres in Portugal is naturally a reflection of the country's dimension and of how recent modern arbitration is. There is still some way to go naturally compared with other regional or, especially, international institutions. But it is undeniable that the country already has some excellent options to offer services aligned with international best practices. Such as precisely the example of the arbitration centre of the Portuguese Chamber of Commerce and Industry, which ties into what Dario said at the beginning, to the attractability of Portugal and its commercial arbitration institutions or centres is one of the features that parties should consider when considering to elect Portugal as the seat of their arbitration. Thank you very much for your time.

Q&A

Dário Moura Vicente

Well, I see two questions that are specifically addressed to me.

The first one concerns what, in my view, is the most crucial historical element that I would highlight in our arbitration history in Portugal. It's not easy to answer this question because the characteristics of our current legal framework do not derive from a single historical event. It is instead a set of aspects that provide a distinctive framework for international arbitration in Portugal.

But I would highlight two moments in our arbitration history. The first was adopting our 1986 law, a significant improvement vis-a-vis the previous situation. We then for the first time have a law specifically on arbitration. There had been a law in 1984, but in fact, it was declared unconstitutional.

So this was our first law in arbitration, and it was a significant step forward in providing the country with a modern legal framework for arbitration. Of course, 2011 improved very much on that law, but essentially it was a development and modernization of the previous law. The second historic moment I'd like to highlight was the Portuguese accession to the New York Convention on the recognition enforcement of foreign arbitral awards, which occurred somewhat belatedly. For some reason, Portugal took a long time to access this Convention, but from the moment this Convention entered into force in Portugal onwards, we were part of a group of nations. Currently, 170 jurisdictions are parties to this Convention, pursuant to which arbitral awards rendered in Portugal may be recognized under a specially favourable regime. The opposite may also happen concerning awards rendered in those other countries. So these were two critical historical events in our arbitration history.

There is another question that I find interesting, which was addressed to all speakers. So, perhaps, my colleagues would like to add something to what I will say in this regard. What is unique about conducting arbitration in Portugal? Or what is Portugal's comparative advantage compared with other EU member states? Well, we live presently in a globalized world where arbitration law tends to be harmonized.

It isn't easy to define something unique to one specific jurisdiction concerning arbitration. It is again a set of features that make arbitration an impartial unique framework. But in any event, I would say that at least within the European Union, what is unique to arbitration in Portugal is the language. It's the Portuguese language, because it's only spoken in Portugal within the European Union. Of course, it's also sproken in ten or other countries or so around the World. But if you want to have international arbitration in Europe, spoken in Portuguese, then Portugal is a place to go for that. Of course, other features are essential when considering whether to locate an arbitration in this country. The legal framework, as I mentioned, the fact that we have an arbitration-friendly judiciary and also that we have qualified legal professionals that can deal with complex arbitrations. So these factors combined make arbitration particularly attractive in Portugal.

And then, to conclude, there is another question that is specifically addressed to me, which concerns the preferred law applicable to the merits of the case chosen for arbitrations held in Portugal. Portuguese law or any other law about the civil law system or even the common law system. Are there any statistics available? I'm afraid not. But in my experience, Portuguese law is the most widely applied law to the merits of the disputes in arbitrations conducted in this country.

Although, of course, parties, as was mentioned here also by Filipe Vaz Pinto, are free to choose other laws to the merits of their dispute. I would say that common law systems are probably not very usually chosen for this purpose. But the laws of other Portuguese-speaking countries such as Brazil, Angola, or Mozambique, are also frequently applied, and Portuguese jurists know them well. And Portuguese jurists can correctly interpret and use them because, as mentioned earlier, they are similar to Portuguese law. So that is what one can say, failing any statistics regarding this question. Thank you.

Q&A

Filipe Vaz Pinto

The first question is, what do you see as the critical element in the legislative updates that elevated Portugal's arbitration framework?

So, in my view, and more important than the technical novelties and improvements that suddenly existed, was the fact that at the time a new law was approved that was inspired by the UNCITRAL Model Law and this helped to position Portugal and arbitration in Portugal into a broader community and to speak the same language as in other jurisdictions. Some very important jurisdictions, such as the UK or France, can afford not to be UNCITRAL Model Law supports this because they have other advantages that make UNCITRAL alignment not so important. But for smaller jurisdictions, that alignment is critical so that we can all speak the same language and any practitioner can be and feel comfortable when dealing with arbitration in Portugal. So this would be definitely if I had to choose one, as the question implies, that would be the one I would then have selected.

Here is another question: under Portuguese law, is it possible that the Arbitral Tribunal decides on preliminary measures (providências cautelares) and entities, banks, registry comply with them voluntarily, as they do when judicial courts determine such measures?

So the answer to the first part of the question is yes. No doubt, in Portugal, arbitral tribunals may issue injury measures that are expressly provided for in the law. The law adopted the UNCITRAL Model Law as modified in 2006, which provided a very detailed regulation of these matters in the same manner as the current mechanism law. As to the second part of the question that refers to whether or not these are complied with voluntarily, here it depends a bit on the experience. If necessary, the law provides that cooperation from state courts can be requested, and state court. As the question also mentions, these measures can be recognized and enforced through state courts in practice, often private parties, especially banks. I've seen cases in practice where they comply with such injury measures determined by the Tribunal. But it will depend on the case's specific circumstances and on the alignment that may or may not exist between the parties. It's an open question. If the critical question is to enforce an interim measure, it may be wise to consider going to the state court and not to the arbitral Tribunal.

The arbitral Tribunal is better suited to issue injury measures when those are to be enforced directly against the parties, where the enforcement is more frequent in that case.

And third, Sarah Thomas asks whether there are any peculiarities of Portuguese law that she should be aware of when reviewing arbitration agreements providing Portugal seated arbitration.

And this ties in with my first point on the UNCITRAL Model Law. So model clauses of major institutions will perfectly suffice. Portuguese law imposes no specific requirements that are different from other jurisdictions. So usually, model clauses by reputed institutions will work well. Common pitfalls, there are many, as you point out in your question, very often disputes, lawyers are asked to review arbitration clauses at the last minute with minimal time, and that is when they are asked to review those dispute clauses, very often they are not, and that's where when usually the problems arise. And so what we see very often institutions indicated incorrectly, institutions that do not exist, contradictory provisions, meaning that we have arbitration agreements and jurisdictional agreements characterizing the course of a given jurisdiction without clarifying exactly the different scopes of applications of both clauses and the typical pathological elements that we see elsewhere. But from the standpoint of Portuguese law, there are no particular elements that one should be considered, that one should consider. And with this, I pass the floor to Sofia.

Q&A

Sofia Martins

Okay, so thank you very much for the many questions.

I will address the ones made specifically for me and add one or two comments on other issues. One word that I would like to add to what Professor Dário Moura Vicente already said about what is unique about conducting arbitration in Portugal vis-a-vis electing a different European seat. I agree with everything that professor Dário Moura Vicente said, and I would add that because this is often relevant for parties, it's certainly much cheaper to arbitrate in Portugal than to go to Paris or London. The weather is better also than in other European countries, so this may be considered. Now, I would also like to highlight, in a more solemn tone, an information that is interesting, which is thatm I'm not sure exactly when, but I believe three or four years ago, maybe a bit more, Portugal entered into a Host State Agreement with the Permanent Court of Arbitration, so Lisbon or Porto can be seats for PCA-administered arbitrations. There already have been two, and another hearing will be held this year in Porto, in this case, in a PCA-administered arbitration.

Vanessa Chan asked me if I favour specialized arbitration centres as a driver of an arbitration-friendly environment or general commercial arbitration centres. Now, this is a tricky question. One thing is when you have specialized types of arbitration, and there it makes sense to have a specialized centre. In Portugal, for instance, we have the so-called tax arbitration, which is very, very specific and unique practically in the World, there are very few countries that tackle this sort of arbitration, and obviously, it makes sense to have an institution that is specifically devoted to this type of disputes. The same applies, for example, to sports disputes. They also have quite specific features.

But, in terms of general commercial arbitration, it's complicated, on the one hand, to have centres specialized in different types of disputes. On the other hand, the institution doesn't decide cases. Those who decide the cases are the arbitrators, so what you need to ensure is that either the Parties or the institution, when called upon to do so, selects the appropriate arbitrators to decide their disputes. So in that sense, specialization doesn't make much sense. And I also believe that the excessive proliferation of commercial arbitration centres can be counterproductive. Not to say that there shouldn't be some competition, but having too many arbitration centres disperses the focus one should have.

I do have other questions. There is one question that's addressed to all but hasn't been answered: if we have some suggestions on how to gain the public confidence in adherence to arbitration, According to the experience of our country. It is not an esay task and it takes a lot of work. And as I pointed out during my presentation, even in Portugal, we sometimes still struggle with some wary players that have some mistrust in arbitration. The main takeaway that I would say is you need to have strong institutions with good rules. You need to have qualified people deciding. You need to have an important focus on the independence and impartiality of tribunal members and transparency. This has gained much traction in the last few years, both in Portugal and internationally. And so these are the key features that attract people to arbitration. And this covers the question from Luis Cardoso about the essential features of commercial arbitration centres.

Let me see if there's anything else for me. Giselle Farinhas, you asked about complementary arbitration with other methods, ADR methods, mediation or dispute boards and if you think we should incorporate mediation and dispute boards and arbitration. Well, they are, by definition, included because the parties are free to elect these other mechanisms and if you go, for example, to the website of the CAC-CCIP, as in the ICC. You will find med-arb clauses, and you will find the possibility to insert other mechanisms in your dispute resolution mechanism, allowing for the resolution of disputes. But even if you don't have the dispute resolution calls that precede these mechanisms, the parties are free to attempt to use them at any time. So they're all complementary means.

There's one last question that just came up: until the international public outbreak, the pandemic outbreak, how widespread was the holding of virtual meetings on arbitrations held in Portugal? Can we conduct arbitration entirely online in Portugal?

Before the Pandemic, it was somewhat frequent to have procedural hearings by virtual means, but in evidentiary hearings, no and more traditional practitioners like to be present and to have everything taking place in a physical presence.

This changed and has changed all over the World, and during the Pandemic, I attended numerous online virtual hearings, sometimes with tribunal members split across the globe. And so I would say that it has come to stay. I think, typically evidentiary hearings, especially in certain types of disputes, for instance, construction disputes, will continue to take place, preferentially physically, mainly if all the parties are located in Portugal or repersented by Portuguese council. But hybrid mechanisms have indeed made their way in, and it's now commonplace. And even before the Pandemic, for instance, to have at least some of the witnesses heard by virtual means. And as I mentioned, the 2021 adaptation to the CAC-CCIP rules was precisely to clarify that this is a possibility specifically. This has to be discussed with parties, and equality of arms must be ensured. But in essence, if the parties agree and the Tribunal agrees, it is possible to conduct a purely online arbitration in Portugal.

And that covers all the questions.

Webinar Arbitration in Portugal

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