

## Elena Gutiérrez García de Cortázar

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*“Elena Gutiérrez has a wealth of knowledge acting as arbitrator in complex cases.”* **Chambers Europe 2021: Most in Demand Arbitrators**

*“A precise a knowledgeable practitioner”* **Who’s Who Legal Arbitration 2020**

*“Particularly sharp and quick at identifying the relevant issues”* **Who’s Who Legal Arbitration 2019**

*“Interviewees underline her experience in complex arbitration cases”* **Chambers Europe 2020: Most in Demand Arbitrators**

Founding Partner of MGC Arbitration, Elena has **over 20 years of experience** in the field of commercial and investment dispute resolution. She is **admitted to the Paris and Madrid bars** and holds a **degree in Law** and a **degree in Business Administration** from ICADE University (Madrid).

In addition to her double degree in Law and Business Administration, Elena’s advance education includes a **Specialized Course on Contracts with the State** (Pontificia Universidad Católica del Perú), an Advanced Program on Contracting in the Information and Technology Sector (Insituto de Empresa) and the Advanced Program MBA Update: Business in China (IE), that took place in Shanghai.

Elena has a 360° perspective of international arbitration, which stems from her past and current experience as an **international arbitrator in more than 40 cases**, former **Secretary General of the Madrid Court of Arbitration**, counsel at major law firms like **Wachtell Lipton Rosen & Katz** in New York and **Uria Menendez** in Madrid, and **Observer for 5 years before UNCITRAL Working Groups II & III**.

During her time at UNCITRAL she was involved in the preparatory works of what became the **Rules on Transparency in Treaty-based Investor-State Arbitration**.

Elena **regularly serves as international arbitrator** (and has acted as Presiding Arbitrator, Party Appointed Arbitrator, Sole Arbitrator and Emergency Arbitrator. Elena has decided cases related to corporate disputes (M&A, shareholders agreements and joint ventures), energy, construction, infrastructure, banking, shipping, international sales, and distribution and agency disputes, both involving private parties and public entities (**Please see Appendix A**).

As a counsel, consultant, and other positions, she has been **involved in complex cases** conducted in English and Spanish, under the major international arbitration rules (ICC, LCIA, ICDR, SCC, KCAB, CAM Milan, CCL, CIAM, CAM Madrid and UNCITRAL Arbitration Rules) in a wide range of jurisdictions and applicable laws (Spanish, French,

Swiss, English, Italian, Argentinian, Mexican, Peruvian, Ecuadorian, Venezuelan, Law of New York...).

Elena is a **Court member of the Amcham Peru Court of Arbitration**, a member of **ICC Arbitration Commission and the ICC International Arbitration Latin-American Group**, a member of the **Board of Directors of the Spanish Arbitration Club** and a former Director of Arbitral Women. She is also co-founder of CEA Mujeres, co-chair of the taskforce women arbitrators of WWA LATAM and is a co-moderator of the **Institute for Transnational Arbitration (ITA) Latin American Forum**.

Elena is included on the Lists of Arbitrators of ICDR, Court of Arbitration of the Lima Chamber of Commerce (CCL), Amcham Peru, CIAC, the Panama Arbitration Centre and the list of international arbitrators CAESP-EPMESC (Brazil).

Elena has co-authored several publications on international arbitration and mediation and is a frequent contributor and speaker on her field (**please see Appendix B**).

Elena has **an extensive academic experience** and regularly teaches law of contracts, negotiation, mediation, advocacy, international litigation, international commercial arbitration, and investment arbitration in **several graduate and postgraduate programs** (Instituto de Empresa, ICADE, Universidad Carlos III, Universidad del Pacífico, Universidad Católica Argentina...) **both in English and in Spanish**.

Until December 2015 Elena served as **Secretary General of the Madrid Court of Arbitration**. During that time Elena **supervised more than 1.000 arbitration proceedings and scrutinized more than 900 awards**.

Before joining the Madrid Court of Arbitration, she worked as **Foreign Associate** at the **New York law firm Wachtell, Lipton, Rosen & Katz**, and for 9 years at the International Dispute Resolution Department of the Spanish law firm **Uría Menéndez in Madrid**.

Elena has been recognized by **Chambers Europe 2020 & 2021: Most in Demand Arbitrators**, **Who's Who Legal Arbitration** in its 2018, 2019, 2020 and 2021 editions, and **Leaders League Spain's Best Arbitrator 2020: Highly Recommended Arbitrators and Best Lawyers 2021**.

She has also been acknowledged in the book **"Women Pioneers in Dispute Resolution"** edited by the Deutsche Gesellschaft für Internationale Zusammenarbeit.

Elena is bilingual in English and Spanish, has a working knowledge of French and some knowledge of Italian and Portuguese.

## **Appendix A: RECENT EXPERIENCE AS ARBITRATOR**

- **ICC Arbitration:** Barbados and Venezuelan company vs Venezuelan State owned company. Energy dispute  
President of the Tribunal  
Applicable Law: Venezuelan Law  
Seat: Miami  
Language: English
- **ICC Arbitration:** Dutch company vs Mexican state-owned company. Energy dispute.  
President of the Tribunal  
Applicable Law: Mexican Law  
Seat: Mexico City  
Language: English
- **ICC Arbitration:** Middle East company vs Eastern Europe state-owned company. Construction and Infrastructures dispute.  
President of the Tribunal  
Applicable Law: Rumanian Law  
Seat: Paris  
Language: English.
- **ICC Arbitration:** Mexican company vs Mexican state-owned company. Energy dispute.  
President of the Tribunal  
Applicable Law: Mexican Law  
Seat: Mexico City  
Language: English
- **ICC Arbitration:** Israeli company vs French company. Construction and Energy dispute.  
President of the Tribunal  
Applicable Law: Israeli Law  
Seat: Tel Aviv  
Language: English.
- **ICC Arbitration:** French and Mexican companies vs Spanish company. Construction and Energy dispute.  
President of the Tribunal  
Applicable Law: Spanish Law  
Seat: Paris  
Language: English

- **ICC Arbitration:** French company vs Ecuadorian public entity. Construction and Infrastructures dispute.  
 Co Arbitrator  
 Applicable Law: Ecuadorian Law  
 Seat: Santiago de Chile  
 Language: Spanish
- **ICC Arbitration:** Spanish company vs Mexican state-owned company. Construction and Energy dispute.  
 Co Arbitrator  
 Applicable Law: Mexican Law  
 Seat: Mexico D.F  
 Language: Spanish
- **ICC Arbitration:** Peruvian company vs Peruvian company. Construction and Infrastructures dispute.  
 Co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Miami  
 Language: Spanish
- **ICC Arbitration:** French company vs Swiss Company. Agency Agreement dispute.  
 Sole Arbitrator  
 Applicable Law: French Law  
 Seat: Paris  
 Language: English
- **ICC Arbitration:** French company vs Uruguayan company. Joint venture dispute.  
 Emergency Arbitrator (Pre-Arbitral Referee)  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: English
- **ICC Arbitration:** Luxemburgish company vs Spanish company. Maritime dispute.  
 Co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Paris  
 Language: English
- **ICC Arbitration:** French company vs Swiss Company. Commercial damages dispute.  
 Sole Arbitrator  
 Applicable Law: French Law  
 Seat: Paris  
 Language: English

- **ICC Arbitration:** Guinean company vs. Spanish company. Consultancy agreement dispute.  
 Sole Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: Spanish
- **ICC Arbitration:** Dutch company vs Spanish company. Joint Venture and competition law dispute.  
 Co Arbitrator  
 Applicable Law: Dutch Law  
 Seat: Paris  
 Language: English
- **CRC Arbitration :** Dominican Republic Company vs. Virgin Islands company. M&A dispute in the energy sector  
 President of the Tribunal  
 Applicable Law: Dominican Republic Law  
 Seat: Santo Domingo  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs state owned company. Energy dispute.  
 President of the Tribunal  
 Applicable Law: Peruvian  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs state owned company. Infrastructure dispute.  
 President of the Tribunal  
 Applicable Law: Peruvian  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs state owned company. Construction and Infrastructure dispute.  
 President of the Tribunal  
 Applicable Law: Peruvian  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Spanish joint venture vs state owned company. Infrastructure's dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian  
 Seat: Lima  
 Language: Spanish

- **CCL Arbitration:** Peruvian company vs French and Peruvian companies. International Sales dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **Arbitraje Amcham Perú:** Peruvian company vs Stated owned Peruvian company. Infrastructure's dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs Peruvian company. Real state and damages dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Chilean company vs Peruvian company. Commercial dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs Peruvian company. Commercial dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs Peruvian company. Commercial dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **CCL Arbitration:** Peruvian company vs Peruvian company. Commercial dispute.  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish

- **Amcham Perú Arbitration:** Italian company vs Peruvian company. Distribution and pharmaceutical dispute.  
 Co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Lima  
 Language: Spanish
- **Amcham Perú Arbitration:** Peruvian company vs Peruvian company. M&A Dispute  
 Co Arbitrator  
 Applicable Law: Peruvian Law  
 Seat: Lima  
 Language: Spanish
- **Amcham Perú Arbitration:** Italian company vs Peruvian company. Joint Venture dispute.  
 Co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Lima  
 Language: Spanish
- **Madrid Court of Arbitration:** Spanish company vs Spanish company. Banking dispute.  
 President of the Tribunal  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: Spanish
- **Madrid Court of Arbitration:** Spanish company vs American company. Distribution agreement dispute.  
 Co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: Spanish
- **Madrid Court of Arbitration:** Spanish company vs Spanish company. M&A dispute.  
 co Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: Spanish
- **Madrid Court of Arbitration:** Spanish company vs Spanish company. Real State dispute.  
 Sole Arbitrator  
 Applicable Law: Spanish Law  
 Seat: Madrid  
 Language: Spanish

- **Madrid Court of Arbitration:** Spanish company vs Spanish company.  
M&A dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Spanish Court of Arbitration:** Spanish company vs. Spanish company.  
Construction dispute.  
President of the Tribunal
- **Spanish Court of Arbitration:** French Joint venture vs Stated owned company. Infrastructures dispute.  
Co Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Spanish Court of Arbitration:** Luxemburgish and German company vs Spanish company. Distribution agreement dispute.  
Co Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish

Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Spanish Court of Arbitration:** Spanish company vs. Spanish company.  
Infrastructure dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Spanish Court of Arbitration:** Spanish company vs. Spanish company.  
Construction dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Spanish Court of Arbitration:** Spanish company vs. Spanish company.  
Construction dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish



- **Spanish Court of Arbitration:** Spanish company vs. Spanish company. Infrastructure dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Barcelona Court of Arbitration:** Spanish company vs Spanish company. Banking dispute.  
Sole Arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Barcelona Court of Arbitration:** Spanish company vs Spanish company. Banking dispute.  
Co arbitrator  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish
- **Ad-hoc Arbitration:** Spanish company vs stated owned company. Construction dispute.  
President of the Tribunal  
Applicable Law: Spanish Law  
Seat: Madrid  
Language: Spanish

## **Appendix B: PUBLICATIONS AND CONFERENCES**

### **1. Publications**

- *Spain. The Constitutional Court Narrows Judicial Scrutiny of Arbitral Awards.* ICC Dispute Resolution Bulletin 2021 | Issue 2.
  
- *Soft Law Y Arbitraje Internacional: ¿Ha Llegado La Hora De Actualizar Las Directrices De La Iba?* Anuario de Arbitraje 2021. Civitas, Madrid 2021.
  
- *Arbitraje y Constitución* Revitsta Alarb . Asociación Latinoamericana de Arbitraje, 2021.
  
- *Spain. The Constitutional Court Significantly Limits the Scope of Public Policy as Ground for Annulment of Awards and Reaffirms Full Respect for Arbitration.* ICC Dispute Resolution Bulletin 2020 | Issue 3.
  
- *Inteligencia artificial y arbitraje: ¿realidad o ficción?* Anuario de Arbitraje 2020. Civitas, Madrid 2020.
  
- *Memento Arbitraje 2020-2021.* Ed. Francis Lefebvre, Madrid 2020.
  
- *Código de Buenas Prácticas Arbitrales* (varios autores) Club Español del Arbitraje, 2019.
  
- *A Vueltas Con La Justicia Cautelar: Árbitro De Emergencia, Security For Costs... ¿Estamos Mejor Que Hace 10 Años?* Anuario de Arbitraje 2019. Civitas, Madrid 2019.
  
- *Sesgos Cognitivos: ¿Son Los Laudos Tan Racionales Como Pensamos* Anuario de Arbitraje 2018. Civitas, Madrid 2018.
  
- *¿Satisface el arbitraje las necesidades de los empresarios del siglo XXI?* Anuario de Arbitraje 2017 Civitas, Madrid 2017.
  
- *Tendencias del arbitraje comercial en Europa* Anuario de Arbitraje 2016 Civitas, Madrid, 2016.
  
- *Memento Práctico de Acceso a la Abogacía* (varios autores) Ed. Francis Lefebvre, Madrid 2016 (2ª edición), y 2013 (1ª edición).
  
- *Comentarios a la Ley de Arbitraje* (varios autores) Editorial La Ley, Madrid 2013.

- *Código CEA de Buenas Prácticas en Mediación* (varios autores) Club Español del Arbitraje, Madrid 2013.
  
- *Diccionario Terminológico del Arbitraje Nacional e Internacional (Comercial y de Inversiones)* (varios autores) Ed. Palestra, Lima 2011.
  
- *Tratado de Derecho Arbitral (Perú)*. (varios autores). Grupo editorial Ibáñez, Lima 2011.
  
- “*El Trabajo de la Corte de Madrid en la Comisión de las Naciones Unidas para el Derecho Mercantil Internacional*”. Diario Jurídico.com, Madrid 2011.
  
- “*La reforma de la Ley de Arbitraje: luces y sombras*”. Revista el Notario del S. XXI, Madrid 2011.
  
- “*Seguridad Jurídica en el Arbitraje online*”. Diario Jurídico.com, Madrid 2011.
  
- *Non Signatories and arbitration: Recent Developments Liber Amicorum Bernardo Cremades*. Ed. La Ley, Madrid 2010.
  
- “*La resolución arbitral de conflictos en el contrato de transporte aéreo regulado en el Convenio de Montreal de 1999*” (con López-Quiroga, J.). Estudios de Derecho aeronáutico y espacial". Ed. Marcial Pons, Madrid 2008.
  
- “*Enforcing a foreign award pending an action to set aside at the Sede of the arbitration: the Spanish example*” Wolters Kluwer Spain Arbitration Review, 2008
- “*Can parties agree to expand the scope of judicial review of arbitration?*” “Kluwer Spain Arbitration Review, 2008.
  
- *Legislation on arbitration*. (varios autores) Ed. Civitas, Madrid, 2007.
  
- *Comparative Study of Residual Jurisdiction in Civil and Commercial Disputes in the EU*. (varios autores) European Union-Lex Mundi, 2007.
  
- *Encyclopedia of International Commercial Litigation (Spain)*. (varios autores) Ed. Kluwer, Londres, 2003.

## **2. Most Recent Conferences (2017/21)**

- *Summary dispositions in international arbitration*. 5th ICC European Conference on International Arbitration. (June 2021).
  
- Webinar *Exhibición documental e inferencias negativas en arbitraje internacional*. Canaco. (June 2021).

- Webinar Capítulo Ecuatoriano del CEA: *Conversatorio con Elena Gutierrez sobre la Sentencia del TC de 15 de febrero de 2021* (March 2021).
- Desayuno CEA Mujeres: *Soft Law y Arbitraje en la Nueva Era: ¿Renovarse o Morir?*: Club Español del Arbitraje (March 2021).
- Webinar: *Los sesgos cognitivos como elementos naturales del sistema de toma de decisiones Impacto en los árbitros*: Instituto Peruano de Arbitraje (January 2021).
- Webinar: *Cláusulas Back to Back entre el EPCista y el Concesionario*. Congreso Internacional de Derecho de la Construcción CIDEC (November 2020).
- Webinar: *Arbitraje internacional en materia de construcción y proyectos de infraestructura*. IV Conferencia Virtual del LIA ( November 2020).
- Webinar: *Algunos problemas que enfrenta el árbitro durante el procedimiento y sus posibles soluciones*. ICC México.( September 2020).
- Webinar: *Exhibición de Pruebas y las Inferencias negativas o inferencias adversas en materia de prueba*: Instituto Peruano de Arbitraje (September 2020).
- Webinar: *Roadmap de un Arbitraje CIADI* Cámara Española de Comercio en Chile (September 2020).
- Webinar: *Las preconcepciones en tiempos de pandemia: ERA Pledge* (September 2020).
- Webinar: *Independencia e imparcialidad de los Árbitros*. IPA (July 2020).
- Webinar: *Virtual Hearings: Present or Future*. Amcham Perú (May 2020).
- Webinar: *Los límites derivados del COVID 19: de la expectativa y la realidad*. WWA (May 2020).
- Webinar: *El Financiamiento en el Arbitraje*. IPA (May 2020).
- Webinar: *Global Arbitrator's Studio*. VYP (May 2020).
- Webinar: *Covid-19, Arbitraje de Inversiones y Análisis Psicológico del Derecho*. Little Open. (April 2020).
- "El Árbitro De Emergencia: Avances Y Desafíos".* Seminario CCL, Lima (February 2020).
- "Buenas prácticas de los tribunales arbitrales y soft law."* VIII Simposio Internacional de Arbitraje, CCL, Lima (November 2019).

- *“Los arbitrajes comerciales internacionales desde la perspectiva de los abogados in house. Dilemas, retos y compromisos.”* Desayuno ArbitralWomen/CEA Mujeres, Lima (November 2019).
- *“Cómo tratar las alegaciones de corrupción: lecciones aprendidas de casos con partes latinoamericanas”* 17th ICC Miami Conference, Miami (November 2019).
- *“Catch me if (and while) you can: How to Navigate Interim Measures in International Arbitration.”* ICC Institute Advanced Level Training, Miami (November 2019).
- *“The Seat of Arbitration in Disputes Involving Latin American Parties: Perspectives and Trends”* LATAP Event, Paris (October 2019).
- *“Private Justice in Europe.”* Universidad del Pacífico, Lima (July 2019).
- *“Aplicable Laws in Arbitration: Conflict Within Conflict”* 5º Foro Internacional de Arbitraje ICC, Santo Domingo (June 2019).
- *“Conthian Theorems: Economical decision making in international arbitration”* CEA Mujeres event, Madrid (June 2019).
- *“Analysis of the most recent and interesting cases in international arbitration.”* XIV International Congress of the Spanish Arbitration Club, Madrid (June 2019).
- *“International Arbitration and Artificial intelligence”.* ICC 1<sup>st</sup> Iberian Arbitration Day, Lisbon (May 2019).
- *“International and domestic public order concepts in the annulment of awards”.* Open de Arbitraje 2019, Madrid (May 2019).
- *“Inside de mind of the appointer of arbitrators,”*, Amcham/ArbitralWomen, Quito (April 2019).
- *“Transparency in International Arbitration”*, XII Conferencia de Arbitraje Internacional, Quito (April 2019).
- *“Generation X and Arbitration”*, CCL, Lima (January 2019).
- *“Women at the top: How to be successful without failing”*, IPA Women in Arbitration Conference, Lima (January 2019).
- *“International arbitration in Latin America”*, ICDR seminar, Paris (2018).
- *“Younger, quicker and available”* ICC YAF Europe Regional Conference, Lisbon (2018).
- *“Enforcement of Emergency Arbitrator Decisions under NY Convention and domestic law”* 60 years of the New York Convention Conference, Seville (2018)

- “*Cognitive bias in the decision-making process of an arbitrator*” IX Comité Français de l’Arbitrage / Spanish Arbitration Club Seminar, Paris (2018)
- “*Effective Arbitral Agreements in international arbitration: ICC Experiences*”. ICC Panarb2018, Panama City (2018).
- *Cognitive Bias and the role of women in International Arbitration* Arbitral Women Breakfast, San José (2017)
- *The art of advocacy in arbitration*. ICC Costa Rica Workshop, San José, Costa Rica (2017)
- *The duty to disclose of the arbitrator and the liability of arbitrators in recent case law*. 14<sup>th</sup> Meeting of the ICC International Arbitration Latin-American Group, La Habana (2017)
- *A Permanent Court System as an Alternative to Investment Arbitration: Pros and Cons*. UIA Congress, Bilbao (2017)
- *Cognitive Bias in International Arbitration* Arbitral Women/CEA Breakfast, Madrid, (2017)
- *Arbitral Institutions: Hear them out*. CEA-40 XI Annual Congress, Madrid (2017)
- *ICC New Rules of Arbitration: Expedited Proceedings*. ICC/CEA seminar Madrid (2017)
- *Interim measures in arbitration: Mock case*, IPA International Arbitration Congress, Lima (2017)
- *Ethical standards in arbitration*. Arbitral Women Breakfast, Lima (2017)
- “*Persuasion Techniques in International Arbitration*” ICC YAF event, Madrid (2017).
- “*Uncitral work on the Settlement of Commercial Disputes*” Mediation Practice and Perspective. Updates and Latest Trends in the Field. ICDR, Madrid (2017).
- “*Annulment of Awards in Commercial International Arbitration*” International Arbitration Congress, San Salvador (2017).