gar AWARDS

Washington, DC, February 2015

Marco Torsello, Luca Radicati di Brozolo, Massimo Benedettelli and Michele Sabatini

Boutique or regional practice that impressed in the past year

ARBLIT - Radicati di Brozolo Sabatini Benedettelli

Although the Milan-based firm has only been in existence for a year and a half, GAR had little hesitation in awarding ARBLIT - Radicati di Brozolo Sabatini Benedettelli the prize for boutique or regional practice that impressed in 2014.

Last November saw the firm win a jurisdictional victory in a high-profile ICSID case it is bringing on behalf of 74 Italian bondholders against Argentina. The claim is one of a trio of innovative cases concerning Argentine sovereign debt that raise questions about multi-party proceedings under investment treaties. Arblit is also acting in another of those cases, brought by 90 bondholders, which cleared the jurisdictional stage in 2013.

The firm has also been acting for a group of European investors in six investment treaty cases against the Czech Republic concerning reforms to its solar power sector.

Arblit founding partner Luca Radicati di Brozolo brought those cases with him when he left Bonelli Erede Pappalardo, his firm of 12 years, to set up Arblit in October 2013. Bonelli senior associate Michele Sabatini came with him, also joining as partner.

The pair were joined a year later by Massimo Benedettelli, who joined after 13 years in Freshfields Bruckhaus Deringer's international arbitration group. The firm also has one of counsel – Marco Torsello – and six associates.

Unfortunately no members of the firm were present to accept the award, however the team members sent GAR a photo of themselves with the award. Radicati di Brozolo tells GAR: "We were extremely happy to win the GAR award, especially just one year after setting up Arblit. It confirms that there is scope in the market for ventures like ours. We also see it as a sign of what the Italian arbitration community can contribute to international arbitration".

The full list of nominees:

- Arias (Madrid)
- ARBLIT- Radicati di Brozolo Sabatini Benedettelli
- Betto Seraglini (Paris)
- Bofill Mir & Alvarez Jana (Santiago) (runner up)
- De Brauw Blackstone & Westbroek (Amsterdam)
- Moreno Baldivieso (La Paz)
- Ferro Castro Neves Daltro & Gomide Advogados (Rio de Janeiro)
- Lazareff Le Bars (Paris)
- Three Crowns (London, Paris, DC)
- Rajah & Tann (Singapore)
- Volterra Fietta (London)

Previous winners:

- Țuca Zbârcea & Asociații (Bucharest) (2014)
- Derains & Gharavi (Paris) (2013)

"Lean and mean"

Arblit founder Luca Radicati di Brozolo describes the firm's beginnings and the work it has handled over the past 18 months.

What inspired you to set up Arblit?

I decided to create a boutique practice to avoid the conflicts that had prevented me from taking on a lot of interesting work as counsel and especially as arbitrator at my previous firms [Bonelli Erede Pappalardo and Chiomenti Studio Legale]. I had a desire for greater freedom and flexibility and felt that I could better leverage my experience and contacts in an independent firm focused on disputes.

I also felt that there was room for a firm practising exclusively arbitration and complex international litigation in Italy, building on expertise acquired in top law firms.

Finally, after 30 years in two large and prestigious firms, I wanted to embark on something new. Massimo Benedettelli, who joined Arblit in October after 13 years as a partner in Freshfields' international arbitration group, felt the same.

How did Massimo end up with the firm?

Massimo and I go back a long way. We were partners together at Chiomenti in the 1990s and have since worked together on several occasions, notably co-editing a commentary on international arbitration. We have always seen eye-to-eye on many issues, and in particular on how we would like to practise international arbitration.

I appointed Massimo as arbitrator in a case several years ago when I was still at Bonelli and had not yet firmly decided to set up on my own. [GAR has reported on the case: an ICC arbitration between French state-controlled shipbuilder DNCS and a subsidiary of Italian defence controller Finmeccanica over a cancelled torpedo venture].

After the case was over and Massimo left Freshfields to set up his own practice it was natural for me to reach out to him to join me. I'm glad he accepted. He and his team have been a great addition to ArbLit.

Who else is on your team?

We're a close-knit team with a common culture and approach to our work. There are now 10 of us. As well as Massimo, I've another partner who came with me from Bonelli – Michele Sabatini. He is young, extremely dynamic and an excellent lawyer.

Marco Torsello, who is of counsel, is a very effective litigator and a respected academic. His role is primarily to deal with court litigation, which we see as an essential complement to our arbitration practice.

Our six associates are extremely bright and dedicated young lawyers, with specific experience in international arbitration.

How does your caseload divide between counsel and arbitrator work?

Arbitrator work forms about 30 per cent of the firm's overall caseload. My own time is split about 50-50 between the two; Massimo sits as arbitrator about 40 per cent of the time.

How popular is the boutique model in Italy?

Small but high-quality firms have always been a feature of the Italian market. However, Arblit is the only one with an international profile specialising in international arbitration and litigation.

How do you compete with the resources of a large international law firm, particularly if they are your opponent in a case?

From our experience of working in first-tier firms we know what top clients expect and aim to provide the same quality of service through our dedicated, hard-working and efficient team.

In my experience large firms tend to overstaff their teams and clients are increasingly cost-conscious and looking for efficiencies. Our model is lean and mean. The fact that others are treading the same path as us very successfully in other countries indicates to me that there is a need for boutique firms.

If the need and opportunity arises, we will consider teaming up with individuals or

likeminded firms in other countries on an ad hoc basis for specific cases, and there is no reason why we cannot also cooperate with large firms. Indeed, it is happening at the moment as we handle some joint mandates with the firms we came from.

Apart from the cases we've reported on in GAR, what have been the highlights of your first 18 months of practice at Arblit?

A significant part of our work has been devoted to the cases you have reported on, the Argentine bond cases, investment cases against the Czech Republic and two cases brought by Italian companies against Ethiopian state entities.

We have also had some significant cases against Romanian state entities and other, smaller arbitrations.

When he moved to Arblit, Massimo brought an arbitration arising from a high-profile Brazilian dispute and a European Court of Human Rights case relating to alleged breaches in Italian criminal proceedings against top managers of a foreign multinational.

We have also worked on some interesting court cases and all of us sit as arbitrators. I personally have appeared as expert in a number of arbitrations and court proceedings.

Arblit is involved in a number of "multiparty" proceedings, such as the Argentine bond cases. Why do you think these kinds of proceedings are becoming more common and are concerns about them misplaced?

The Argentine bond cases are somewhat exceptional. But, in general, the rise in multiparty proceedings is a consequence of the greater complexity of transactions nowadays. There has been a quest for creative solutions to allow disputes arising from such transactions and the different parties involved to be brought into a single arbitration, with obvious benefits in terms of efficiency, reducing costs and avoiding divergent outcomes.

Of course, it is important to respect the consensual nature of arbitration and the privity of the arbitration agreement. On the other hand, an excessively formalistic interpretation of these concepts makes arbitration unworkable in relation to complex transactions, leaving court litigation or parallel arbitrations as the only options.

There is also potential for company law disputes to be resolved through multiparty proceedings. We are involved in a project looking at possible reforms of Italian company law to encourage recourse to arbitration, sponsored by the Italian Arbitration Association and Assonime – the Italian association of listed companies.

What plans do you have to grow the firm? Could you imagine opening any international offices, as Derains & Gharavi have done in DC?

We don't have plans to grow very much because we like the atmosphere and dynamics of the firm as it is now. Of course, only time will tell whether an increase in workload will force us to grow.

For the time being we don't see the need to open international offices. In any case, my association with Fountain Court Chambers, a fantastic set where I am a door tenant, gives me good international projection and the opportunity to work out of London.

How would you describe Italy as a venue for arbitration?

Italy is not among the prime venues for international arbitration – a legacy of a time when the country's arbitration culture was far from ideal. However, today Italian arbitration law is similar to the law of other arbitration-friendly countries and Italian courts understand and support the process. Italy also has a good group of practitioners well versed in international arbitration.

Several institutions are doing a good job of further developing a modern and international culture of arbitration – the Milan Arbitration Chamber and the re-founded Italian Arbitration Association being foremost among them.

In light of all this, there is no particular reason why Italy shouldn't be a more frequent venue for international arbitration. For cultural reasons, it would be particularly suitable as a neutral seat for arbitrations involving parties from the Mediterranean and Latin America.

What would you change about international arbitration?

There is constant discussion of the problems of international arbitration and how to fix them – new challenges seem to arise as quickly as we collectively address the existing ones.

Obviously, there is room for improvement. In an ideal world, arbitration would be simpler, less costly and more efficient. One must recognise, though, that the system works fairly well as it is – to the extent that anybody will ever be happy with a process whose raison d'être is resolving disputes, which are inherently unpleasant for the parties.

It's also the closest thing we have to a system of international justice. In an international environment, national courts are in most cases not an alternative.

When arbitrations are slow, complicated and expensive or lead to unsatisfactory outcomes, it's often because the disputes are complex, the stakes are high and litigants have understandably used every tool to defend their case. It's also the effect of having a system based on party autonomy with no overarching body to impose consistency – it's inevitable that some parties will exploit that.

My impression is that counsel, arbitrators and arbitral institutions are well aware of the problems and do their best to address and fix them. But it is naïve to expect that arbitration can be simple and smooth in a world that is increasingly complex, diverse and litigious.

Sebastian Perry