



# Manuel Conthe

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Manuel Conthe is a full-time international arbitrator. He is also a columnist and Chairman of the Advisory Board of the Spanish leading business newspaper, *Expansión*, and non-executive independent director of Acerinox. He is a lawyer and economist with a recognized expertise in finance, currency issues, energy, corporate issues, valuation of damages and cognitive biases in decision-making. During his long domestic and international professional career, he has developed a reputation for independence, integrity, analytical skills and clarity of exposure.

## PROFESSIONAL EXPERIENCE

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### CURRENTLY:

- Arbitrator. Sole practitioner who acts only as arbitrator, never as counsel.
- Chairman of Spain's Arbitration Court (since January 1st, 2018)
- Columnist and chairman of the Advisory Board of *Expansión*, Spain's leading financial newspaper (since 2007)
- Non-executive independent director of Acerinox, the listed international stainless-steel manufacturer (since June 2011)

#### *Sept. 2009 – March 2015*      ***Of-Counsel at Bird&Bird***

- He started his work as an arbitrator in late 2009 as Of-Counsel in Bird&Bird LLP Madrid, a position he left in March 2015 to avoid conflicts of interests as arbitrator.

#### *Oct. 2004 – May 2007*      ***Chairman of Spain's Securities & Exchange Commission (CNMV)***

- He chaired the Task Force which drafted Spain's 2006 Corporate Governance Code.
- He oversaw the introduction of IAS-IFRS accounting standards by Spanish listed companies in 2005
- He chaired IOSCO's Task Forces on "Board independence" and "Protection of minority shareholders."
- He was a member of the High Level Committee overseeing the new Iberian Electricity Market
- In May 2007 he resigned in disagreement with a majority decision taken by the CNMV Board related to the public take-over bid of Spanish electric utility *Endesa*.

#### *Oct. 2002 – Oct. 2004*      ***Partner of Analistas Financieros Internacionales (AFI)***

- He led consulting projects in Latin American and Eastern Europe for the World Bank, IFC and IDB on funding of transnational infrastructure projects, regulatory risks in FDI projects, financial regulation and housing finance.
- He worked for Spain's Regional Governments on the use of Public-Private-Partnerships (PPP) for the provision of health services.

#### *April 1999 – September 2002*      ***Vice President at the World Bank***

- He co-chaired the World Bank Finance & Private Sector Infrastructure (FIPSI) Network.

- As Vice-president for Finance (April 1999-June 2001), he represented the World Bank in the “Financial Stability Forum” and was a member of its working group on capital movements.
- In close cooperation with the IMF, he rolled out the “Financial Sector Assessment Program” (FSAP).
- He promoted a special Technical Assistance Program on the development of domestic bond markets.
- He represented the World Bank in the 2000 AAOIFI-World Bank Conference on Islamic Banking and Finance.
- As Special Advisor to the Bank’s CFO (July 2001-September 2002), he worked on the IMF’s “Sovereign Debt Restructuring Mechanism” draft and on the World Bank Group’s strategy to promote foreign direct investments in emerging economies.

*July 1996 – March 1999*      ***Chief Economic and Commercial Counselor, Spain’s Permanent Representation to the EU***

- He was Spain’s Deputy Representative to the EU’s Trade Policy Committee (“113 Committee”) in Brussels and as such was (indirectly) involved in:
  - The negotiation in the WTO of the ITA Agreement to remove tariffs on IT products
  - WTO dispute settlement panels involving the EU (e.g. bananas)
  - EU’s Preferential Trade Agreements
  - The preparation of the then called “Millenium Round” (the fore-runner of the “Doha Round”)
  - Bilateral EU-USA trade issues and negotiations (e.g. Helms Burton)
  - The OECD negotiations on a “Multilateral Agreement on Investments” (MAI).
- He participated as part of Spain’s delegation in the first Ministerial WTO Conference held in Singapore in December 1996.

*Nov. 1995 – May 1996*      ***Deputy Minister for Economy (“Secretario de Estado de Economía”)***

- During the December 1995 European Council in Madrid, he drafted its Conclusions on the “scenario for the introduction of the euro.”
- He approved the securitization by Spanish electric utilities of the so-called “nuclear moratorium.”
- Non-executive director of SEPI, the Spanish State’s industrial holding company.

*Oct. 1988 – Nov. 1995*      ***Director General of the Treasury and Financial Policy***

- As the Kingdom’s Chief Financial Officer (CFO), he was in charge of Spain’s sovereign borrowing, derivatives and cash management programs, and took a leading role in the modernization of Spain’s domestic public debt market.

In close collaboration with the Bank of Spain, he specifically helped develop:

- The Treasury’s group of market makers
  - The regulation of Spain’s first future and option markets on peseta government bonds
  - The new system of personal government bond accounts at the Bank of Spain for retail investors (“cuentas directas”)
  - A new type of mutual funds investing primarily on government bonds (“Fondtesoros”)
- He drafted all major Government regulations and laws on banking and financial markets, including the Law on Autonomy of the Bank of Spain, the Law on Securitization of Financial Assets and the regulation of the domestic futures and options markets.
  - As member of the EU Monetary Committee, he negotiated the entry of the peseta into the European Monetary System (June 1989) and its subsequent four devaluations.
  - He led Spain’s delegation to the 1990 Conference which created the EBRD.

- He led Spain's delegation to the 1991 Inter-governmental Conference on Economic and Monetary Union which negotiated the 1992 Maastricht Treaty.
- Member of the Board of the Bank of Spain and of Spain's Securities & Exchange Commission (CNMV).
- Member of the Board of the European Investment Bank (EIB).

*Dec. 1986 – Oct. 1988      **Director General for Foreign Transactions & Investments***

- As head of Spain's Foreign Transactions Directorate, he chaired the committee which screened and approved all major FDI projects involving a foreign majority stake.
- He led Spain's delegation to the 1988 Washington conference which led to the creation of the Multilateral Investment Guarantee Agency (MIGA).
- Non-executive director at Banco Exterior and Repsol Exploración.

*Dec. 1984 – Dec. 1986      **Deputy Director General of the Treasury for External Finance***

- As Deputy CFO for the Kingdom of Spain, he managed Spain's foreign borrowings and its relations with international capital markets and rating agencies.
- He negotiated and managed the Kingdom's currency and interest rate swaps.
- He controlled and supervised foreign currency borrowings by Spanish public entities, as well as highway companies benefitting from a sovereign exchange risk guarantee.
- He promoted and supervised the foreign peseta bond market ("*mercado matador*").

*1979 – 1984*

- 1981-1984 Technical Assistant to Executive Director at the Inter-American Development Bank (IDB). Besides reviewing all loans and investment projects funded by the IADB and submitted to the Board for approval, he was closely involved in the negotiation of the IADB's fifth capital replenishment and the establishment of the Inter-American Investment Corporation.
- 1979-1981 Junior official at the Ministry of Commerce of Spain, dealing with trade promotion and screening of FDI projects in Spain.
- In December 1978 he joined the "Special Corps of Government Economists" ("*Técnicos Comerciales y Economistas del Estado*") of the Ministry of Commerce.

**EXPERIENCE AS AN ARBITRATOR**

**2016**

- Court-appointed sole arbitrator in an ICC dispute concerning the sale of a holding company (**ongoing**). Dispute amount: € 14 million.

**2015**

- Sole arbitrator in a dispute administered by Barcelona's Arbitration Court (TAB) concerning an interest rate "collar" (settled in 2016). Amount: € 6.9 million.
- Chairman of an arbitral tribunal in a dispute administered by the Court of Arbitration of Madrid concerning an interest rate swap (award rendered in January 2016). Claim amount: € 531,000 euros
- Chairman in an ICC dispute concerning an engineering project in Portugal (settled in 2017). Dispute amount: \$ 4.5 million.
- Respondent-appointed arbitrator in an ICC dispute concerning an international M&A dispute (settled in 2016). Dispute amount: € 72 million.
- Court-appointed wing arbitrator in an ICC dispute concerning an engineering project in Spain (settled in 2017). Dispute amount: € 20 million.
- Court-appointed sole arbitrator in an ICC dispute concerning an engineering project in South Africa (award rendered in January 2016). Dispute amount: \$ 8.5 million.

## 2014

- Claimant-appointed arbitrator in a dispute administered by the Court of Arbitration of Madrid concerning an interest rate swap (award rendered in June 2015). Claim amount: €521,000.
- Chairman of an arbitral tribunal in a dispute administered by the Court of Arbitration of Madrid concerning an interest rate swap (award rendered on July 30, 2014). Claim amount: €232,000.
- Claimant-appointed arbitrator in a UNCITRAL dispute, between the Republic of Ecuador and a Brazilian energy company (**ongoing**). Claim amount: \$ 828 million.
- Claimant-appointed arbitrator in an ICC dispute between two banks on the valuation of a put option in a joint venture (award rendered in August 2015). Claim amount: € 180 million.
- Claimant-appointed arbitrator in a dispute administered by the Court of Civil and Mercantile Arbitration (CIMA) on a distribution contract in Latin America between two telecom companies (parties settled in January 2015). Claim amount: € 5.2 million.

## 2013

- Chairman of an arbitral Tribunal in a dispute administered by the Court of Civil and Mercantile Arbitration (CIMA) on the termination on an insurance distribution agreement between an international insurer and a Spanish bank (parties settled in March 2014). Claim amount: € 47 million.
- Respondent-appointed arbitrator in an international arbitration administered by the Inter-American Commercial Arbitration Court (CIAC) in a dispute in Peru on a gas production contract (**ongoing**). Claim amount: tbd.
- Claimant-appointed arbitrator in a dispute administered by the Court of Arbitration of Madrid concerning a series of interest rate swaps (award rendered in May 2014). Claim amount: € 3.3 million.
- Court-appointed chairman in a dispute administered by the Court of Arbitration of Madrid concerning a structured interest rate swap (award rendered in January 2014). Claim amount: € 142,000.

## 2012

- Chairman of an arbitral Tribunal in a dispute administered by Spain's Court of Arbitration concerning a structured interest rate swap (award rendered in March 2013). Claim amount: € 2.1 million.
- Sole arbitrator in a dispute administered by the Court of Arbitration of Madrid on a shareholders' agreement and tag-along rights (award rendered in February 2013). Claim amount: € 7.8 million.
- Respondent-appointed arbitrator in a dispute administered by Spain's Court of Arbitration on breach of company by-laws in a joint venture (award rendered in April 2013). Claim amount: € 350,000.
- Sole arbitrator in a dispute administered by the Court of Civil and Mercantile Arbitration (CIMA) on the supervision of a construction project (award rendered in September 2012). Claim amount: € 732,000.

## 2011

- Claimant-appointed arbitrator in the ad-hoc UNCITRAL investment arbitration case *Guaracachi America & Rurelec v. Plurinational State of Bolivia*, on the expropriation of an electric utility (award rendered on January 30, 2014). Claim amount: \$ 142 million.
- Sole arbitrator in a dispute administered by the Court of Arbitration of Madrid concerning an M&A earn-out dispute (award rendered in April 2012). Claim amount: € 4.2 million.
- Respondent-appointed arbitrator in a dispute administered by Spain's Court of Arbitration concerning a leasing contract of a gas station (award rendered in November 2011). Claim amount: € 113,000.

## 2010

- Chairman of an arbitral tribunal in a dispute administered by Spain's Court of Arbitration concerning an interest rate swap (award rendered in April 2011). Claim amount: € 3 million.
- Chairman of an arbitral tribunal in a dispute administered by the Court of Arbitration of Madrid concerning a put option (parties settled in November 2010, on the eve of award). Claim amount: € 756,000.
- Sole arbitrator in a dispute administered by Spain's Court of Arbitration concerning a credit insurance claim (award rendered in May 2010). Claim amount: € 25,000.

## AREAS OF EXPERTISE

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- Financial markets (equity swaps, IRS and derivatives, securitization, banking regulations, credit insurance, IFRS, accounting and financial reporting; investor protection and mis-selling claims, market abuse)
- Regulation of electricity & energy markets and valuation of electricity & energy companies
- Corporate transactions and governance (valuation of companies and joint ventures, shareholders' agreements, M&A and take-over disputes; corporate governance issues, directors' fiduciary duties, related-party transactions)
- Foreign direct investments, including regulatory risks, financing and regulation
- Public-Private Partnerships
- Monetary and currency laws & contractual clauses
- Trade laws & WTO Agreements (GATT, GATS, TRIMS...)

## EDUCATION

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- 1971-1976 Law degree from *Universidad Autónoma de Madrid* (UAM). Final research paper: Special Drawing Rights (SDR).
- 1976-1977 Research grant on International Private Law at *Universidad Autónoma de Madrid* (UAM) on the public order exception.
- 1971-1974 Undergraduate studies on Economics (Macroeconomic analysis) at the *Universidad Complutense de Madrid* (UCM).
- 2001 Executive Education Program at Harvard Business School.

## LANGUAGES

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- **Spanish:** mother tongue
- **English:** perfect command
- **French:** fluent
- **German:** full reading proficiency
- **Portuguese:** full reading proficiency

## PUBLICATIONS

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*Recent articles in English on legal issues*

- "The quantification of damages in wrongful expropriations" (forthcoming)
- "Conflicts of interest of non-Martian arbitrators" (World Mediation and Arbitration Review, 2014).
- "The Case for Remission techniques in Arbitration" (Latin American Journal of International Trade Law, 2013).
- "Inside Arbitrators' Minds," published on the *Global Arbitration Review* website on January 20, 2011.
- "Cognitive Biases in Legal Decision-Making," presentation at the Dispute Resolution seminars held during the 2010 Vancouver and 2011 Dubai IBA Annual Meetings.
- "The Financial Crisis and Toxic Retail Derivatives: Fraud by Hindsight or Mis-selling?" in "1950-2010 Memorial Book of Arbitration for the Warsaw National Chamber of Commerce" (original title in Polish), pp. 735-738.
- "Majority Decisions in Complex Arbitration Cases: the Role of Issue-by-Issue Voting," *Spain Arbitration Review* 8/2010, pp. 5-17.

### *Books*

He has written three books, mostly on economic, legal and social paradoxes and dilemmas, with a special focus on behavioural law & economics:

- "Pensar con Arte" (*Thinking with Art*), Editorial Biblioteca Nueva, December 2014.
- "La Paradoja del Bronce" (*The Bronze Medal Paradox*), Editorial Crítica, Barcelona, 2007.
- "El Mundo al Revés" (*The World Upside Down*), Editorial Planeta, Barcelona, 1999.

### *Other*

- As Chairman of Expansión's Advisory Board, he is up to date on all major economic policy debates, both international and domestic.
- His columns in *Expansión* (<http://www.expansion.com/blogs/conthe/>) analyze current financial, economic, legal and political events through the lens of game theory, behavioral law & economics, and public choice.
- Regular speaker and panelist, in Spanish and English, on financial and banking regulation, economic and monetary union, corporate governance, electricity and energy markets, behavioral finance, law & economics, and arbitration.
- He is a member of the Advisory Board of the Foundation for the Good Use of Spanish ("Fundación del Español Urgente", Fundéu).
- He is a member of the Advisory Board of "Indexa Capital," a Spanish securities firm offering passive wealth management on-line services.