

# Arbitration News

OCTOBER 2023

## What Spanish courts are saying

SPAIN

- The High Court of Justice of Madrid, in its [Judgment of 12 September](#), partially upholds a request to set aside an award in which the arbitrator had failed to rule over one of the claims. The Court holds that the failure to provide a decision with respect to one of the claims amounts to a breach of procedural public policy.
- The High Court of Justice of Madrid, in its [Judgment of 19 September](#), dismisses a request to set aside an award based on an alleged lack of impartiality of the arbitrator. According to the Court, the principle of impartiality is not violated if the arbitrator makes inappropriate or vexatious remarks during the arbitration, because the arbitrator may sometimes need to point out the bad faith or recklessness of the litigant.

## What is happening outside Spain

INTERNATIONAL

- A Hong Kong Court of First Instance, in its [Judgment of 5 October](#), rejects an application for the enforcement of an award on the grounds of the arbitrator's inattention. The Court finds that it would be contrary to public policy to allow the enforcement of an arbitral award when, during the hearings, the arbitrator (connected by videoconference) moved around several rooms, spoke to other people, and even drove a car.
- The England and Wales High Court, in its [Judgment of 6 October](#), refuses to enforce a Spanish Supreme Court's judgment ordering the insurer of the Prestige to pay compensation of EUR 855 million to Spain. It concludes that such enforcement would be irreconcilable with the previous recognition of two awards by the English courts, even though in [June 2022](#) the CJEU held that the Spanish judgment should be enforced.
- An ICSID arbitral tribunal, in its [Award of 6 October](#), finds Spain in breach of the Energy Charter Treaty and orders it to pay compensation to a group of German investors as a consequence of the reforms to the economic incentive scheme for the renewable energy sector.
- The England and Wales High Court, in its [Judgment of 23 October](#), sets aside an arbitral award against Nigeria on the grounds that it was fraudulent and contrary to public policy. The Court finds that the award had been obtained through false evidence and the bribery of witnesses, noting the particular gravity of the case and its impact on the reputation of arbitration as a dispute resolution mechanism.

## Some interesting publications and events

ACADEMIC WORLD

- The Madrid International Arbitration Center (MIAC) has published new [Rules](#) that will enter into force on 1 January 2024. Among others, the new Rules incorporate the following changes: (i) the introduction of a hyper-abbreviated procedure; (ii) new regulations on the optional challenge procedure of the award; and (iii) more detailed provisions on multi-party and contract arbitrations.

## What we have been up to at Pérez-Llorca

PLL

- Joaquín Ruiz Echauri (Insurance partner at Pérez-Llorca), Felipe Nazar and Andrés Vargas (Litigation and Arbitration partner and lawyer at Pérez-Llorca) published, on 18 October, the article "[Insurance against Non-Payment of Arbitral Awards](#)", included in the latest edition of the Insurance Legal Update, published by Pérez-Llorca.
- Felipe Nazar and Celia Cañete (Litigation and Arbitration partner and lawyer at Pérez-Llorca) published, on 20 October, the legal briefing "[Third-Party Funding: Practical Considerations and Challenges](#)".
- Félix J. Montero (Litigation and Arbitration partner at Pérez-Llorca) participated as a speaker, on 27 October, on the panel "International disputes: A look at disputes in the Spain - USA - Latin America axis", held within the framework of the [Iberoamerican Forum in Madrid](#).