

Arbitration News

JANUARY 2024

What Spanish courts are saying

SPAIN

- The High Court of Justice of the Balearic Islands, in its [Judgment of 4 December](#), dismisses a claim that sought the judicial appointment of an arbitrator on the grounds that the dispute in question did not fall within the material scope of application of the arbitration clause. After accepting that the arbitration agreement could be interpreted in different ways, the Court opts for the most restrictive interpretation, on the basis that arbitration would constitute a waiver of jurisdiction.
- The High Court of Justice of Madrid, in its [Judgment of 5 December](#), dismisses a request to set aside an arbitration award based, inter alia, on alleged defects in the procedure for the judicial appointment of the arbitrator. The Court rejects the argument as untimely, as the annulment proceeding against the judgment appointing the arbitrator had not been brought, and therefore said judgment has the effect of res judicata.
- The High Court of Justice of Castilla-La Mancha, in its [Judgment of 21 December](#), upholds a request to set aside an award in which the proceedings are dismissed due to an out-of-court settlement and the arbitrator's fees and administration costs are paid out of the provision of funds. The Court holds that the quantification of the fees contained in the award would infringe public policy, as it would be *“preventing the right to challenge their amount, either as undue or excessive”*.

What is happening outside Spain

INTERNATIONAL

- The German Supreme Court, in its [Judgment of 12 December](#) (summary available [here](#)), partially enforces an award that orders India to pay compensation to a German investor. Contrary to India's claim, the Supreme Court finds that the CJEU's judgment in the *Achmea* case does not extend to bilateral investment treaties signed by European Union states with third States.
- The Paris Court of Appeal has issued a new judgment in the saga between the Heirs of the Sultan of Jolo and the State of Malaysia. In this case, the sole arbitrator issued a partial award declaring itself competent, and then issued a final award ordering Malaysia to compensate the Heirs. Currently: (i) the partial award is before the French Supreme Court for recognition and enforcement; and (ii) the final award is before the Paris Court of Appeal for annulment. In its [Order of 9 January](#), the latter suspends the annulment proceedings of the final award until the recognition and enforcement of the partial award is resolved.

Some interesting publications and events

ACADEMIC WORLD

- On 1 January 2024, the new arbitration rules of the [Madrid International Arbitration Center](#) (CIAM) and the [China International Economic and Trade Arbitration Commission](#) (CIETAC) entered into force.
- The Spanish and Ibero-American Arbitration Club (CEIA) has organized the III Edition of the [Contest of Articles on Arbitration](#), which seeks to promote research and the exchange of ideas in the areas of arbitration and mediation.

What we have been up to at Pérez-Llorca

PLL

- Fernando Bedoya, Francisco Paniagua, Matilde Sánchez Ballester, José Luis Ruiz de Castañeda and Javier García Urbano (Litigation and Arbitration partner and lawyers at Pérez-Llorca) have published a compendium of commentaries on relevant Spanish arbitration case law, contained in [volume XV](#) of the Commercial and Investment Arbitration Journal (*Revista de arbitraje comercial y de inversiones*).
- Javier Sánchez Villegas (Litigation and Arbitration lawyer at Pérez-Llorca) was appointed, on 19 January, member of the [new coordination](#) of Madrid Very Young Arbitration Practitioners (MAD VYAP).