

# Arbitration News

APRIL 2024

## What Spanish courts are saying

SPAIN

- The High Court of Justice of Madrid, in its [Judgment of 27 February](#), upholds an action for the annulment of an award based on the lack of independence and impartiality of the institution that conducted the arbitration. The Court concludes that there was a close link between the institution and the association that included the arbitration agreement in the rent guarantee policy. It further notes that, at the time the arbitration agreement was signed, the claimant's husband was both the president of the institution and the president of the association.
- The High Court of Justice of Madrid, in its [Judgment of 6 March](#), upholds an action for the annulment of an award on the grounds that the arbitrator had improperly disregarded additional evidence that was crucial to the resolution of the dispute, as it was considered to have been filed belatedly. According to the Court, the respondent-counterclaimant (which had proposed the aforementioned additional evidence) had not been aware of the reason for an alleged breach until the response to the counterclaim, and, therefore, the evidence should have been admitted.

## What is happening outside Spain

INTERNATIONAL

- The Svea Court of Appeal (Stockholm), in its [Judgment of 27 March](#) (summary [here](#)), sets aside an award issued under the Energy Charter Treaty, which ordered Spain to compensate an investor for changes to the renewable incentives regime. The Court considers that upholding the award would contravene both the CJEU judgment in the *Achmea* case and Swedish public policy.
- The Regional Court of Essen (Germany), in its [Judgment of 12 April](#), dismisses a claim by the Kingdom of Spain requesting that the German investor RWE be ordered to cease the enforcement of an ICSID award for EUR 28 million. The Kingdom of Spain had requested the imposition of fines and up to two years imprisonment for RWE's senior management in the event that RWE did not cease enforcement.
- The Swiss Federal Tribunal, in its [Judgment of 3 April](#), confirms the competence of an arbitral tribunal to settle a dispute between a French investor and the Kingdom of Spain, initiated under the Energy Charter Treaty. The Court refers to the judgment issued by the CJEU in the *Komstroy* case, stating that it is not bound by that decision and that, in any case, it is not convinced by it.

## Some interesting publications and events

ACADEMIC WORLD

- The European Parliament [approved](#), on 24 April, a coordinated exit from the Energy Charter Treaty, following the decisions of the Commission and the Council of the European Union.

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

PLL

- Javier Tarjuelo and Javier García Urbano (Litigation and Arbitration lawyers at Pérez-Llorca) published, on 8 April, the article "[The negative exequatur of foreign awards in Spain](#)" in the magazine *Iurgium*.
- Felipe Nazar (Litigation and Arbitration partner at Pérez-Llorca) participated as a speaker, on 10 April, in the panel "[ESG in Dispute: Rethinking Investor-State Arbitration in a Sustainable World](#)" at Berkeley Law.
- Félix J. Montero (Litigation and Arbitration partner at Pérez-Llorca) participated as a speaker, on 25 April, in the panel "[Is it necessary to regulate the use of AI in arbitration? What regulations are in place?](#)" held as part of the XVIII IPA International Arbitration Congress.
- Ignacio Santabaya and Daragh Brehony (Litigation and Arbitration partner and associate at Pérez-Llorca) participated, on 25 April, as speaker and moderator, in the event "[Bridging the gap between common law and civil law in international arbitration](#)" organised by Arbitration Ireland at Pérez-Llorca.