

# Arbitration News

JANUARY 2023

## What Spanish courts are saying

SPAIN

- The Supreme Court, in its [Judgment no. 864/2022, of 1 December](#), analyses the effects of the declaration of the insolvency judge suspending the effectiveness of the arbitration clause during insolvency proceedings.
- The High Court of Justice of Madrid, in its [Order of 1 December](#), considered that the dispute between the Heirs of the Sultan of Sulu and the State of Malaysia is closed and, consequently, rejected the request of the State of Malaysia that the final award be declared legally non-existent.
- The High Court of Justice of the Balearic Islands, in its [Judgment no. 5/2022, of 12 December](#), set aside an award for infringement of public procedural order, considering that the arbitral tribunal violated the principle of a bilateral hearing.

## What is happening outside Spain

INTERNATIONAL

- The Svea Court of Appeal, Stockholm, in its [Judgment of 13 December 2022](#), set aside an award which ordered Spain to compensate an investor, applying the judgments of the CJEU in the Achmea and Komstroy cases.
- The Court of Appeal of Singapore, in its [Judgment of 6 January 2022](#), held that the arbitrability of a dispute is determined both by the law of the seat of arbitration and by the law applicable to the arbitration agreement; and examined the procedure for establishing the latter.
- The Court of Appeal of Paris, in its [Judgment of 10 January 2023](#), set aside an award on the grounds that there was a “close and personal” relationship between the president of the arbitral tribunal and the counsel of one of the parties. This relationship was highlighted when the president of the tribunal dedicated a eulogy to Emmanuel Gaillard, who had led the representation of one of the parties.
- The Court of Appeal of Paris, in its [Judgment of 10 January 2023](#), set aside the award in Komstroy v. Moldova for the second time, and gave an interesting interpretation of the concept of investment. It was first set aside by [decision of 12 April 2016](#).

## Some interesting publications and events

ACADEMIC WORLD

- In December 2022, the International Chamber of Commerce published Issue 3 of the [ICC Dispute Resolution Bulletin](#).
- The Spanish Arbitration Club -40 is offering a new edition of its [Arbi-Talks](#), in which Alejandro Garro (Professor at Columbia University) talks about procedural and quasi-procedural aspects of international arbitration.
- Wolters Kluwer Arbitration published [volume XLVII of the ICCA Yearbook Commercial Arbitration \(2022\)](#).

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

PLL

- In December 2022, the Pérez-Llorca Legal Journal published the article [“The law applicable to the arbitration clause: an international landscape in contrast with the situation in Spain”](#).
- On 15 December 2022, Ignacio Santabaya (partner at Pérez-Llorca) participated as a speaker in the event [“How to deal with a construction arbitration? Survival kit for your first cases”](#), organised by MAD VYAP at the Madrid Court of Arbitration.