

# Arbitration News

NOVEMBER 2024

## What Spanish courts are saying

SPAIN

- The High Court of Justice of Pais Vasco, in its [Judgment of 24 October](#), dismisses an action to set aside an award, on the grounds that it is not its role to verify the correct application of the law in matters other than its basic principles. The Court criticized the use of public policy for the purpose of appealing an award.
- The High Court of Justice of Pais Vasco, in its [Judgment of 24 October](#), dismisses an action to set aside an award where a violation of essential procedural principles was alleged on the grounds that a minimum evidentiary basis was not provided to prove the alleged procedural breaches and material defencelessness suffered in relation to the service of the writ of claim. The Court holds that the case law criteria necessary to conclude that there had been material defencelessness that affected public policy were not met.

## What is happening outside Spain

INTERNATIONAL

- The French Court of Cassation, in its [Judgment of 27 November](#), suspends a procedure to set aside an award which ordered to compensate Yemen with USD 30 million. The Court is going to request a preliminary ruling from the CJEU on whether the sanctions imposed by the European Union against Yemen in 2014 would prevent the payment of the award.
- The European Court of Human Rights, in its [Judgment of 26 November](#), upholds a claim brought by a Polish investor against North Macedonia, on the grounds that the investor had not been guaranteed the right to a fair trial in the proceeding for the enforcement of an ICC award.
- An ICSID tribunal, in its [Award of 12 November](#), orders Colombia to compensate a Spanish investor the amount of USD 380 million for a violation of the fair and equitable treatment standard.
- The French Court of Cassation, in its [Judgment of 6 November](#), upholds the decision of the Paris Court of Appeal, which refused to recognize the award rendered by a Spanish arbitrator ordering Malaysia to compensate the heirs of the Sultan of Sulu.
- The Stockholm Chamber of Commerce Arbitration Institute (SCC), in its [Report of 5 November](#), announces a change in its policy regarding the designation of the seat in an investment arbitration where it had not been determined. Unless otherwise agreed by the parties, the SCC will locate the seat of arbitration in a State that is not a member of the European Union, in light of the complexities arising from the CJEU's position on intra-EU arbitration, and in order to ensure the enforcement of the issued awards.

## Some interesting publications and events

ACADEMIC WORLD

- The latest update to the report on compliance with investment arbitration awards has been published, "[Report on Compliance with Investment Treaty Arbitration Awards 2024](#)", prepared by Prof. Nikos Lavranos. The report: (i) reveals that Spain is the State with the highest number of unpaid awards (*i.e.* 24 awards for an amount of approximately EUR 1.6 billion); and (ii) highlights the complexities arising from the recognition and enforcement of intra-EU awards, citing the most relevant judgments rendered by courts of the concerned jurisdictions.

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

PLL

- Javier Tarjuelo and Pablo Orts (Litigation and Arbitration lawyers at Pérez-Llorca) have published the article "[The IBA Guidelines on conflicts of interest in the case law of the High Court of Justice of Madrid: some considerations regarding the release of the new 2024 Guidelines](#)", in the journal *Iurgium*.
- Celia Cañete (Litigation and Arbitration lawyer at Pérez-Llorca) participated as a speaker, on 29 November, in the panel "[Work Hard Play Harder: Why participate in Moots as a student](#)", at Carlos III University.