COURTS WITH JURISDICTION TO RECOGNIZE AND ENFORCE FOREIGN ARBITRAL AWARDS IN SPAIN UNDER THE 2011 AMENDMENTS OF THE SPANISH ARBITRATION LAW

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I. INTRODUCTION

On December 23, 2003, Spain adopted Law 60/2003 on Arbitration (the “Arbitration Law”),² based on United Nations Commission on International Trade Law’s (“UNCITRAL”) 1985 Model Law on International Commercial Arbitration.³ The Arbitration Law was intended to “take into consideration the requirements of uniformity of the arbitral procedural law and the needs of international commercial arbitration practice.”⁴

Last year, the Spanish legislature revamped the Arbitration Law through two laws, namely Law 11/2011 and Organic Law 5/2011, which were both enacted on May 20, 2011.⁵ One significant modification to the existing law was the reallocation of the functions performed by local courts in support of arbitration.

The modifications introduced in 2011 affected the Organic Law on the Judiciary Branch (“LOPJ”)⁶ and the old 1881 Code of Civil Procedure (“LEC/1881”),⁷ some provisions of which survived the 2000 Code of Civil Procedure (“LEC/2000”),⁸ including those relating to the enforcement of foreign judicial decisions and arbitral awards.⁹

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² Law 60/2003, of December 23, 2003, on Arbitration.


⁴ Arbitration Law, preamble (¶ I).


⁷ Royal Decree of February 3, 1881, on Civil Procedure.


⁹ Id., abrogation provision 1.3 (declaring the survivability of articles 951-958 of LEC/1881).
This article will outline the functions performed by local Spanish courts in support of arbitration and then discuss the roles of Spanish courts in the recognition and enforcement of foreign arbitral awards.

II. OVERVIEW OF FUNCTIONS PERFORMED BY LOCAL COURTS IN SUPPORT OF ARBITRAL TRIBUNALS

Article 8.6 of the Arbitration Law, as amended, outlines the functions performed by the local courts in support of arbitration. This provision, entitled “Competent Courts for Assistance and Supervision of Arbitration,” assigns jurisdiction over specific aspects of arbitration to the local courts as follows:

(a) **Appointment and removal of arbitrators:** The High Court of Justice of the Autonomous Community of the seat of the arbitration has jurisdiction in respect of the judicial appointment and removal of arbitrators. However, if the seat has not yet been determined:

- jurisdiction resides with the High Court of Justice of the Autonomous Community of the domicile or place of residence of any of the respondents; or
- if none of the respondents have their domicile or habitual place of residence in Spain, then jurisdiction resides with the High Court of Justice of the Autonomous Community of the domicile or place of residence of the claimant; or
- if neither the respondents nor the claimant have their domicile or place of residence in Spain, then jurisdiction resides with the High Court of Justice of the place of the claimant’s choice.

(b) **Taking evidence:** The Court of First Instance of the seat of the arbitration, or the Court of First Instance of the place where judicial assistance is required, has jurisdiction over the taking of evidence in support of an arbitral tribunal.

(c) **Interim Measures:** The Court of First Instance of the place where the arbitral award would be enforced has jurisdiction in respect of interim measures related to the arbitration proceeding and, in lieu of such court, the Court of First Instance of the place where the measures should be implemented.

(d) **Enforcement of domestic arbitral awards:** The Court of First Instance of the place where an arbitral award was rendered has jurisdiction over the enforcement thereof.  

(e) **Vacatur of domestic arbitral awards:** The High Court of Justice of the Autonomous Community of the place where the arbitral award was rendered has jurisdiction over an application to vacate that award.

(f) **Recognition and enforcement of foreign arbitral awards:** Jurisdiction to recognize and enforce a foreign arbitral award rests with the High Court of Justice of the

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10 In accordance with article 545.2 LEC/2000.
Autonomous Community of the domicile or place of residence of the party against whom the recognition is sought, or of the domicile or place of residence of the person to whom it applies. However, should it not be possible to determine the corresponding court in accordance with such rule, jurisdiction resides with the High Court of Justice of the Autonomous Community of the place of enforcement or where the corresponding arbitral award should take effect.

These same criteria determine which Court of First Instance has jurisdiction to enforce foreign arbitral awards.

In short, the process of exequatur of foreign arbitral awards is divided in two stages and handled by two different courts: (i) the recognition or homologation of the foreign award is done by the relevant High Court of Justice; and (ii) the enforcement is carried out by the relevant Court of First Instance.

Under the pre-2011 text of the Arbitration Law, the functions mentioned in (a), (d) and (f) above were carried out by the corresponding Court of First Instance and the function mentioned in (e) was carried out by the corresponding Provincial Court – in both cases under the same criteria currently in force. The functions mentioned in (b) and (c) above remain the same. Therefore, the changes effected by the new law are geared towards removing jurisdiction on certain matters from the Courts of First Instance and the Provincial Courts in favor of the High Courts of Justice.

One of the main purposes for this change is to achieve more uniformity and thus to avoid contradictory decisions. In this regard, there are only 17 High Courts of Justice, as opposed to 661 Courts of First Instance that have (or had) jurisdiction to provide support to arbitration proceedings, and 140 Provincial Courts with jurisdiction over civil law matters. By concentrating in higher courts the tasks of hearing applications for the recognition and enforcement of foreign awards, as well as for vacating domestic arbitration awards, the legislature has sought to have fewer courts dealing with these matters, and thus foster harmonization of the judicial decisions in this regard.

According to a survey conducted by the General Council of the Judiciary, the average duration of a proceeding in a Court of First Instance is 8 months, in a Provincial Court is 5.9 months and in a High Court of Justice is 4.6 months. Thus, in transferring certain functions to the High Courts of Justice, the legislature sought to streamline the judicial proceedings linked to arbitration.

Unfortunately, the General Council of the Judiciary does not provide exact data for the number and duration of judicial proceedings related to the recognition and enforcement of foreign arbitral awards in the year 2011. Because, however, such proceedings would fall into the category of

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12 LA JUSTICIA DATO A DATO AÑO 2011 9-10 (General Council of the Judiciary 2012), available at www.poderjudicial.es. This document is also available in English under the title THE SPANISH JUDICIARY IN FIGURES 2011.
13 Id., p. 88.
“other” international requests and there were only 465 such requests in total during 2011, not many foreign awards are sought to be recognized or enforced in Spain.\footnote{id:14}

III. ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

A. General Rule - Application of the New York Convention in Spain

Article 523 of LEC/2000, entitled “Enforceability in Spain. Law Applicable to the Procedure,” contains the general rule for recognition and enforcement of foreign judgments and arbitral awards in Spain:

1. For final judgments and other enforceable instruments [títulos ejecutivos] that may be enforced in Spain, the provisions in International Treaties and the legal provisions on international judicial cooperation shall apply.

2. In any case, the enforcement of foreign judgments and enforceable instruments shall be carried out in Spain in accordance with the provisions herein, unless otherwise provided in the International Treaties in force in Spain.

On its part, article 517.2 of LEC/2000 explains what is an “enforceable instrument,” which includes “arbitral awards or decisions.” Accordingly, the Spanish legal system contains a \textit{renvoi} to international law because, in order to recognize or enforce foreign judgments and arbitral awards, any applicable international treaty or European norm shall apply.

The same is true for article 46 of the Arbitration Law, entitled “Foreign Character of the Award. Applicable Rules,” which states the following:

1. A foreign award is an award that has been rendered outside of Spanish territory.

2. The exequatur of foreign awards shall be governed by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, made in New York on July 10, 1958, without prejudice to the provisions of other more favorable international conventions, and shall take place in accordance with the procedure established in the civil procedure rules for judgments rendered by foreign courts.

From the quoted provision, one can draw four main conclusions. First, any arbitral award rendered outside Spanish territory is considered a “foreign award.” Second, the exequatur of foreign arbitral awards – except where a more favorable international regime is applicable – shall be carried out in accordance with the New York Convention.\footnote{id:15} In other words, the New York

\footnote{id:14} Id., p. 73.
\footnote{id:15} This is also envisaged in article VII.1 of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on June 10, 1958 and entered into force on June 7, 1959 (the \textit{New York Convention}) (“The provisions of the present Convention shall not affect the validity of multilateral
Convention is applicable to any “foreign award” regardless of whether it was rendered in a country signatory to such Convention or not. This is further explained in the Arbitration Law’s preamble:

Given that Spain has not made any reservation to [the New York Convention], it is applicable regardless of the commercial nature or not of the dispute, and of whether the award was rendered or not in a State party to this Convention. This means that the scope of application of the New York Convention in Spain renders unnecessary an internal exequatur regime for foreign awards, without prejudice to what may be established by other more favorable international conventions.

The Supreme Court of Spain has also confirmed that a foreign award does not necessarily have to be rendered in a State signatory to the Convention and, therefore, will virtually apply to any foreign award to be recognized or enforced in Spain.16

Third, in case of a more favorable international instrument applicable to the exequatur of a specific foreign award, the latter should apply. This is further explained in Section III.B below. Fourth, article 46.2 of the Arbitration Law only uses the word “exequatur.” However, by incorporating through reference the New York Convention, it should be understood to include both the “recognition” and “enforcement” of foreign arbitral awards.

On a separate note, pursuant to article of 518 LEC/2000, the enforcement of a foreign judgment or of an arbitral award shall be subject to a statute of limitations of five years from when such judgment or arbitral award became final.

**B. Court With Jurisdiction**

Under the pre-2011 regime, the application for recognition and enforcement of foreign arbitral awards had to be filed with the Court of First Instance of (i) the place of compliance with the obligation contained in the award or (ii) of the place where the assets of the liable debtor were to be attached.17 Additionally, when there was more than one party against whom enforcement could be sought, the Court of First instance chosen by the applicant for enforcement had jurisdiction over the other debtors. Therefore, both the recognition and enforcement of the foreign award were heard by the same Court of First Instance. This rule has remained for the recognition of foreign court judgments, but not for foreign arbitral awards.

or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.”).


17 Article 85 of LOPJ (pre-2011 version); article 545 of LEC/2000 (pre-2011 version).
The modifications introduced in 2011 by the legislature are intended to bifurcate the procedure of recognition and enforcement of a foreign arbitral award. Under the new regime, the requests for recognition of a foreign arbitral award are heard by the corresponding High Court of Justice and, should the foreign arbitral award be recognized, the enforcement will later be carried out by the corresponding Court of First Instance following the procedure set forth for the enforcement of Spanish judicial decisions (contained in articles 517 et seq. of LEC/2000). To this effect, article 955 LEC/1881 was amended as follows:

Without prejudice to international treaties and other international instruments, the court with jurisdiction to hear applications for recognition and enforcement of foreign judgments and other judicial decisions, as well as foreign mediation agreements, shall be the Court of First Instance of the domicile or place of residence of the party against whom the recognition or enforcement is sought, or of the domicile or place of residence of the person to whom they apply; subsidiarily, territorial jurisdiction shall be determined by the place of enforcement or where such judgments or decisions ought to take effect. . . .

Jurisdiction to recognize foreign arbitral awards or decisions corresponds, pursuant to the criteria expressed in the first paragraph of this article, to the Civil and Criminal Chambers of the High Courts of Justice, without further appeal. For the enforcement of awards and foreign arbitral decisions, jurisdiction shall reside with the Courts of First Instance in accordance with the same criteria.  

In a similar sense, article 8.6 of the Arbitration Law has been amended and replaced by the following new wording:

For the recognition of foreign arbitral awards or decisions, jurisdiction shall reside with the Civil and Criminal Chambers of the High Court of Justice of the Autonomous Community of the domicile or place of residence of the party against whom the recognition is sought, or of the domicile or place of residence of the person to whom they apply, with the territorial jurisdiction subsidiarily determined by the place of enforcement or where those arbitral awards or decisions ought to take effect. For the enforcement of foreign arbitral awards or decisions, jurisdiction shall reside with the Court of First Instance in accordance with the same criteria.  

Appropriate amendments were also made to articles 73.1, 85.5 and 86ter of LOPJ, which list the matters that the High Courts of Justice, Courts of First Instance and Mercantile Courts

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19 Note that there is an error in ¶ II (in fine) of the preamble of the Arbitration Law, which refers to the Provincial Courts as the ones with jurisdiction to rule over the recognition and enforcement of foreign arbitral awards.
shall hear, to reflect the modification in articles 955 of LEC/1881 and 8.6 of the Arbitration Law.²⁰

C. Local Procedure

Recognition and enforcement will follow the procedure established in article 523.2 of LEC/2000, which provides that “the enforcement of foreign judgments and enforceable instruments shall be carried out in Spain in accordance with the provisions herein, unless otherwise provided in the International Treaties in force in Spain.” Article 42 of the Arbitration Law expressly refers to the New York Convention unless a more favorable instrument is applicable. Article III of this Convention contains, in turn, a renvoi back to the local procedure:

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.²¹

Accordingly, in order to recognize and enforce a foreign arbitral award in Spain, one should follow the procedure established in the LEC/2000 for the recognition and enforcement of foreign judicial decisions but applying the rules of the New York Convention.

The recognition or homologation takes place under a procedure called “exequatur” characterized by “the mere homologation purpose of the effects of the foreign decision, particularly on the procedural side – res judicata, enforcement, preclusion. . . – and it is aimed to result in a ruling that, without reviewing the merits beyond what is required by the applicable law and the public order of the forum (the latter understood in its international meaning), provides effectiveness to the [foreign] decision, which thereafter shall display all effects in Spain to the extent and scope originally enjoyed. . . .”²² As a result, the review of the merits of the award by the Spanish courts is excluded. In this regard, the Constitutional Tribunal expressed that a review of the merits by the Spanish court “is understood, in principle, as antithetic to the homologation or recognition task, which would be distorted in case of such review. . . .”²³

According to article 42 (together with article 8.6) of the Arbitration Law, the recognition of the foreign arbitral award shall be carried out as follows:

(a) Applications for the recognition of a foreign arbitral award shall be filed with the corresponding High Court of Justice, except when international law requires otherwise (pursuant to article 73.1 of LOPJ).

²⁰ Organic Law 5/2011, sole article.
²¹ Emphasis added.
²² A.T.S. of February 6, 2001 (RJ 2001, 1510), third legal basis.
²³ S.T.C. of June 17 (RTC 1991, 132), fourth legal basis.
(b) The party requesting the recognition shall furnish, together with the statement of claim, the documents set forth in article IV of the New York Convention: “1. To obtain the recognition and enforcement . . . the party applying for recognition and enforcement shall, at the time of application, supply: (a) The duly authenticated original award or a duly certified copy thereof. (b) The original [arbitration] agreement . . . or a duly certified copy thereof. 2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.”

(c) Once the statement of claim (together with the above-mentioned documents) is filed, the exequatur procedure begins. The proceeding shall be carried out “in accordance with the rules of procedure of the territory where the award is relied upon” and “[t]here shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.”

(d) The party against whom enforcement is sought will then have thirty days to appear in court to oppose the enforcement. However, if the opposing party refuses to appear, the court shall continue the proceeding. Once the opposing party appears in court, he or she will have nine days to be heard. The District Attorney shall also render an opinion as to the lawfulness of the foreign arbitral award within the same term.

(e) The recognition of the foreign arbitral award shall only be refused pursuant to the narrow grounds contained in the New York Convention.

(f) The High Court of Justice will then render a non-appealable decision regarding the exequatur.

As to the enforcement of the foreign arbitral award, under the pre-2011 regime, once the exequatur was granted by the Court of First Instance, such Court had to commence the enforcement thereof. In contrast, under the new regime, once the recognition is granted by the relevant High Court of Justice, the applicant must go to the relevant Court of First Instance to commence the enforcement under the enforcement procedure contained in articles 517 et seq. of LEC/2000 or, in other words, as if it were a judgment rendered by a Spanish local court.

D. Grounds To Set Aside A Foreign Award

The exequatur regime established by the New York Convention is favorable to the recognition and enforcement of a foreign arbitral award and the exequatur may only be rejected on the limited

24 New York Convention, article III.
25 LEC/1881, article 957.
26 Id.
27 Id., article 956.
28 Id.
29 Id.
grounds listed therein. The reasons to refuse recognition of a foreign award can be divided into two categories: (i) those that can only be invoked by a party,\textsuperscript{30} and (ii) those that can be applied \textit{sua sponte} by the court.\textsuperscript{31}

\textbf{E. Other International Instruments}

Article 46.2 of the Arbitration Law requires that the New York Convention be applied to the recognition and enforcement of foreign arbitral awards “without prejudice to the provisions of other more favorable international conventions.” Consequently, if there is a more favorable regime for the recognition and enforcement of a foreign arbitral award and the applicant chooses such regime (without, however, any obligation to do so), the more favorable instrument shall apply.\textsuperscript{32}

There are a number of international instruments that should be taken into account in this regard, but only the most relevant ones will be briefly discussed in this Section. First, at the multilateral level, it is worthwhile mentioning:

(a) \textbf{The 1961 Geneva Convention,}\textsuperscript{33} which includes some non-European countries, such as Azerbaijan, Burkina Faso, Cuba, Kazakhstan and Turkey.\textsuperscript{34} This Convention has been ratified by 31 States, including Spain (on August 10, 1975).\textsuperscript{35}

This Convention regulates certain aspects of the recognition and enforcement of foreign arbitral awards in a more restrictive way than the New York Convention (see article IX.2). The courts with jurisdiction to recognize and enforce awards in Spain under this Convention will be the same courts as under the general rule discussed in the preceding Section.

(b) \textbf{The Washington Convention,} which is applicable in the context of investor-State disputes.\textsuperscript{36} This Convention has been signed by 158 States and ratified by 147, including Spain (on June 20, 1994).\textsuperscript{37}

\begin{footnotesize}
\textsuperscript{30} New York Convention, article V.1.
\textsuperscript{31} Id., article V.2.
\textsuperscript{33} European Convention on International Commercial Arbitration, signed in Geneva on April 21, 1961 and entered into force on January 7, 1964 (the “\textbf{1961 Geneva Convention}”).
\textsuperscript{35} Id.
\textsuperscript{36} Convention On The Settlement Of Investment Disputes Between States And Nationals Of Other States, signed in Washington, D.C. on March 18, 1965 and entered into force on October 14, 1966 (the “\textbf{Washington Convention}”). \textit{See} specifically id., article 25.
\textsuperscript{37} List of Contracting States and Other Signatories of the Washington Convention, \textit{available at} icsid.worldbank.org (last visited on July 25, 2012).
\end{footnotesize}
The Washington Convention provides a more favorable regime than the New York Convention because it eliminates the exequatur proceeding and imposes upon the signatory States – including Spain – a duty to directly recognize and enforce the awards rendered within the framework of this Convention. In this regard, article 53.1 thereof provides that “[t]he award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention.” On its part, article 54.1 of the same Convention regulates the enforcement of these arbitration awards by requiring that “[e]ach Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State.” In other words, any appeal or attempt to set aside these kind of awards is precluded in a local jurisdiction and such awards are immediately enforceable with the only requirement that a copy of the arbitration award be certified by the Secretary-General of ICSID.

Under article 54.3 of the Washington Convention, the “execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.” This provision should be read in light of the above-transcribed decision of the Supreme Court expressing that a court cannot “review[ ] the merits beyond what is required by the applicable law and the public order of the forum. . . .” Therefore, a Spanish court will not recognize and/or enforce a foreign arbitral award contrary to Spanish public policy.

Furthermore, Spain has not designated any “competent court or other authority” for the purpose of “recognition or enforcement” of awards rendered pursuant to this Convention. This, together with the submission to local procedure set forth in article 54.3 of the Washington Convention, results in that it is not clear what court should hear an application for the recognition and enforcement in Spain of an award rendered within the framework of the Washington Convention:

- Possibility 1: since article 54 of the Washington Convention speaks of “recognition” and “enforcement,” the corresponding High Court of Justice should first automatically recognize the award, which would further be enforced by the corresponding Court of First Instance as if it were a Spanish court judgment.

- Possibility 2: since the award is treated as “a final judgment” rendered in Spain, the applicant may skip the automatic recognition step and thus

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38 See also Miguel Checa Martínez, Arbitraje entre Estados e Inversores Privados: Entrada en Vigor del Convenio de Washington de 18 de Marzo de 1965, XLVII REVISTA ESPAÑOLA DE DERECHO INTERNACIONAL 322, 324 (1995).
39 Washington Convention, article 54.2.
40 A.T.S. of February 6, 2001 (RJ 2001, 1510), third legal basis.
41 Id., article 54.2; ICSID’s Website, Section “Member States”, available at icsid.wordbank.org.
proceed directly to the enforcement at the corresponding Court of First Instance.

As of August 1, 2012, there has been no attempt to recognize and/or enforce in Spain an award rendered under the Washington Convention and, therefore, this is a question that remains to be answered. However, given that proceedings in the High Courts of Justice only take an average of 4.6 months, a prudent lawyer should choose Possibility 1 above in order to avoid additional litigation or surprises at the Court of First Instance.42

(c) **Energy Charter Treaty**, which provides a multilateral framework for energy cooperation and it is designed to promote energy security through the operation of more open and competitive energy markets, while respecting the principles of sustainable development and sovereignty over energy resources.43 This Convention has been ratified by 46 States, including Spain (on December 16, 1997).44

Article 26 (disputes between an investor and a Contracting Party) and article 27 (disputes between Contracting Parties) of the Energy Charter Treaty simply state that the arbitral awards “shall be final and binding” upon the parties to the dispute, without further explanation of the enforcement. Article 26 allows arbitration under the (i) Washington Convention; (ii) ICSID Additional Facility Rules;45 (iii) UNCITRAL Arbitration Rules; or (iv) SCC Arbitration Rules.46 Therefore, the choice between any of the aforementioned rules of arbitration will determine whether the arbitral award will be recognized and enforced in Spain under the Washington Convention or the New York Convention. Conversely, article 27 of the Energy Charter Treaty provides only for arbitration under the UNCITRAL Arbitration Rules (unless the corresponding Contracting Parties otherwise agree) and thus the recognition and enforcement in Spain of these awards will follow the general regime.

At the bilateral level, Spain has entered into international treaties with other States for the recognition and enforcement of judicial decisions and/or arbitral awards, which contain specific

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45 Additional Facility Rules of the International Centre for Settlement of Investment Disputes (“ICSID Additional Facility Rules”).
provisions in this regard. Each international treaty contains a different regime that sometimes may apply only to judicial judgments, leaving arbitral awards subject to recognition and enforcement in Spain under the New York Convention (or any other applicable international instrument). In at least seven instances, however, the Supreme Court has ruled that the New York Convention applies instead of the Spain-France bilateral treaty and, at least in one instance, that such Convention applies instead of the Spain-Czech Republic bilateral treaty. Therefore, if there is a bilateral treaty between Spain and another State for the recognition and enforcement of arbitral decisions, a prudent lawyer should carefully analyze its wording, applicability and the jurisprudence associated therewith in order to decide whether to pursue the recognition and enforcement of a foreign arbitral award under such bilateral treaty or apply the New York Convention instead.

IV. CONCLUSION

The author agrees that, in principle, the removal of the power to recognize foreign arbitral awards from the Courts of First Instance was an appropriate and necessary measure to take. The new regime will foster more uniformity in the decisions and a more coherent universe of precedents. This is also reinforced by the fact that the High Courts of Justice are now empowered to hear requests to vacate domestic arbitral awards. Because the grounds to vacate a domestic arbitral award are very similar to those in the New York Convention, the allocation of this function to the High Courts of Justice may also contribute to a harmonized body of court decisions.

Additionally, given the statistics regarding the length of proceedings before the High Courts of Justice, this new regime should shorten the time that it takes to recognize and enforce a foreign arbitral award or decision in Spain. However, the opposite may be true, because dividing the procedure in two different tribunals may delay the process overall. In any case, this question remains to be answered in light of the experience. Perhaps the next issue of the THE SPANISH JUDICIARY IN FIGURES, published yearly by the General Council of the Judiciary, may contain statistics that will provide an answer.