

Chapter 71

Spain

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§ 71:1 Introduction

Spain recognizes and enforces foreign judicial resolutions from European Union (EU) member states and non-EU countries pursuant to different procedures. If resolutions are issued in the EU, Spain applies the corresponding EU regulations.

In the case of judgments from jurisdictions outside the EU, Spain applies the multilateral or bilateral international treaties signed with the country of origin of the resolution or, in the absence of applicable treaties, a procedure established in the new Law on International Judicial Cooperation in Civil Matters of July 30, 2015 (the “LIJC”) based on certain requirements.

§ 71:2 Recognition and enforcement of judgments issued outside European Union—In general

Judgments from a country outside the EU will be recognized and enforced in Spain in accordance with the international treaties ratified by Spain and such country.

In the absence of any applicable international treaties, a foreign judgment may be recognized and enforced in Spain on the basis of compliance with certain requirements.

§ 71:3 Recognition and enforcement of judgments issued outside European Union—Multilateral treaties

Spain has ratified some multilateral international treaties on recognition and enforcement of foreign judgments. Such international treaties will be applied by Spain if the foreign judgment comes from a country that has also ratified the same international treaty.

For example, Spain has ratified the Lugano Convention of 16 September 1988, on the jurisdiction and enforcement of judgments in civil and commercial matters, and the revised Lugano Convention signed on 30 October 2007 (Lugano II), which are applicable to foreign resolutions obtained from Norway, Switzerland, and Iceland. The Hague Convention of June 30, 2005, on Choice of Court Agreements also is applicable in Spain.

The 2005 Hague Convention is enforceable amongst the countries of Mexico, Montenegro, Singapore, and the United Kingdom, as well as

all member states of the EU (including Denmark). Given the applicability of Regulation (EU) 1215/2012 amongst member states of the EU, the Convention is only relevant for recognition and enforcement of judgments from Mexico, Montenegro, Singapore, and the United Kingdom when parties chose the courts of such countries.

Nevertheless, the only advantage with respect to the more favourable and thus applicable legal regime in LIJC is that, unlike the requirement imposed by article 46.1(c) of the LIJC, judgments from Mexico, Montenegro, Singapore, and the United Kingdom could not be refused recognition in Spain even if the relevant elements of the relationship or the dispute did not have a reasonable connection with such countries. In such a case, the EU did not avail the power under article 19 of the Hague Convention to limit jurisdiction if all relevant elements were connected only with the country of enforcement.

§ 71:4 Recognition and enforcement of judgments issued outside European Union—Bilateral treaties

Spain has ratified bilateral international treaties with various countries. Recognition and enforcement of judgments from such countries must follow the corresponding bilateral international treaty with the country where the judgment was issued. The main bilateral international treaties ratified by Spain for a general application in civil and commercial matters are:

1. The treaty signed with Colombia on 30 May 1908; The Resolution of Court of First Instance 8 of Salamanca of 24 February 2016 (Number 86/2016) confirmed the subsidiary application of the competence criteria of the general regime for recognition and enforcement (currently in the LIJC) if the corresponding bilateral treaty did not contain express regulation of such criteria;
2. The treaty signed with Brazil on 13 April 1989;
3. The treaty signed with Mexico on 17 April 1989;
4. The treaty signed with Israel on 30 May 1989;
5. The treaty signed with China on 2 May 1992 (also applicable to Hong Kong);
6. The treaty signed with the former Soviet Union on 26 October 1990 (and still applicable to the Russian Federation and Ukraine);¹
7. The treaty signed with Morocco on 30 May 1997;

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¹The Judgment of the High Court of Valencia of 24 May 2019 (Number 171/2019) held that decisions from the Russian *Arbitrazh* Courts (Commercial Courts) are decisions of an Arbitral Tribunal subject to the arbitration-recognition system under the New York Convention rather than the 1990 treaty with the former Soviet Union. It is arguable that *Arbitrazh* Courts are judicial courts, but similar confusion has