

Emergency arbitrator decision under the Rules of Arbitration of the Madrid Court of Arbitration

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In an unreported decision, an emergency arbitrator considered whether to make an order for the attachment of assets.

In February 2016, an emergency arbitrator appointed by the Court of Arbitration of the Madrid Chamber of Commerce (Madrid Court of Arbitration) ordered the preventive attachment of assets in relation to a corporate dispute. The decision was rendered within 11 days from the application date and the proceedings were conducted on a documents only basis. The emergency arbitrator rendered her decision after one exchange of pleadings: the applicants' written application and the opposition writ from the defendant. No hearing or conference call was held to discuss the merits of the application, although this possibility is not excluded in the Rules of Arbitration of the Madrid Court of Arbitration (Rules).

Emergency proceedings were added to the Rules (*Articles 1 - 6, Annex II*) in March 2015 and they are available in respect of all arbitration agreements that submit the dispute to the Madrid Court of Arbitration, regardless of their date and provided that the parties have not excluded this possibility. In this case, the arbitration agreement was signed in July 2010.

The decision, 24 pages long, contains a detailed reasoning on the factual and legal issues in dispute as well as a detailed analysis of the grounds on which the emergency arbitrator rendered her decision. The losing party was ordered to pay all costs related to the emergency proceedings.

The decision has not yet been made public so its publication is awaited before detailed commentary can be given on the consequences of the decision. Nevertheless, the decision shows that the Spanish arbitration institutions are effective and willing to put in place the most innovative mechanisms to resolve commercial disputes.