COUNTRY COMPARATIVE GUIDES 2024

The Legal 500
Country Comparative Guides

Spain

INVESTING IN

Contributor

RocaJunyent

Xavier Costa Arnau

Partner | x.costa@rocajunyent.com

This country-specific Q&A provides an overview of investing in laws and regulations applicable in Spain.

For a full list of jurisdictional Q&As visit **legal500.com/guides**

SPAIN
INVESTING IN

1. Please briefly describe the current investment climate in the country and the average volume of foreign direct investments (by value in US dollars and by deal number) over the last three years.

According to the data provided by the Spanish Ministry of Industry, Trade and Tourism, and the Registry of Foreign Investments DataInvex, Secretary of State for Commerce, the investment climate in Spain over the past three years has been characterized by significant foreign direct investments (FDI) across various sectors and regions.

In 2021 Spain attracted $31.75 billion in foreign investment, a 17.7% increase from the previous year. The final quarter of 2021 was particularly strong, with investments totaling $15.62 billion. Key sectors benefiting from this influx included ICT, Aerospace, Chemical Industry, Renewable Energy, Automotive & Mobility, Agrifood, Tourism & Leisure, Transport & Logistics, Audiovisual Industry, and Life Sciences. Top investors were Luxembourg, France, the Netherlands, and the United Kingdom. The Madrid region led in terms of investment volume, followed by Catalonia and the Basque Country.

In 2022 the upward trend in FDI continued, with foreign investment surpassing $37.68 billion, the second-highest figure since 1993. The United States was the principal investor, contributing a quarter of the total FDI received. Spain also secured 860 greenfield projects, ranking as the sixth-largest recipient globally. Over 55% of foreign investments were directed towards the services sector, with substantial contributions to the industrial sector, particularly in manufacturing, telecommunications, renewable energies, programming, and research and development. Catalonia, the Community of Madrid, the Basque Country, Valencia, and Andalusia were the top regions in terms of foreign investment received.

During the first quarter of 2023 (as of the publication of this chapter, data for 2023 is available only for the first quarter), foreign investment in Spain increased by 20.3% compared to the same period in 2022, reaching $10.92 billion. The industrial sector gained prominence, attracting nearly half of the total FDI, closely followed by the services sector. The United States remained the top investor, with notable contributions from Australia and France. The main regions benefiting from these investments were Catalonia, the Community of Madrid, Valencia and the Region of Murcia.

Spain remains open to foreign investment and actively seeks additional investment as a key component of its growth strategy. Following a severe GDP contraction of 11% in 2020, Spain rebounded with a 5.1% GDP growth in 2021. The country is expected to confirm its return to its pre-COVID crisis level in 2023. Spain's strengths, including its excellent infrastructure, well-educated workforce, large domestic market, access to the European Common Market, and leadership in renewable energy, continue to make it an appealing destination for foreign investment.

With the aim of transforming its economy through digitalization and greening, Spain is using its Next Generation EU recovery funds to drive long-term productivity and growth. Despite challenges faced by SMEs in accessing credit and EU recovery funds, Spain's stable credit ratings and successful public debt issuances, particularly in green bonds, reflect a strong investor appetite for investment in the country.

2. What are the typical forms of Foreign Direct Investments (FDI) in the country: a) greenfield or brownfield projects to build new facilities by foreign companies, b) acquisition of businesses (in asset or stock transactions), c) acquisition of minority interests in existing companies, d) joint ventures, e) other?

While there are various avenues for FDI in Spain, Mergers and Acquisitions stand out as the most common and preferred method, offering immediate market access and resource utilization. Other forms like greenfield investments, joint ventures, and real estate investments also play significant roles in Spain's FDI landscape.

Mergers and Acquisitions (M&A): This is the predominant form of FDI in Spain. A foreign company either acquires or merges with an existing Spanish company. This method is preferred due to its efficiency and speed in gaining immediate access to the local market, expertise, and resources. It bypasses the need to build a new operation from scratch, making it a favored choice for many foreign investors.

Greenfield Investments: In this type of investment, a foreign company starts a new venture in Spain from the ground up. This can involve constructing new facilities, such as factories, offices, or retail outlets. While greenfield investments are more labor-intensive and time-consuming than M&A, they offer greater control over the company's operations in Spain.

Joint Ventures and Strategic Alliances: Foreign investors some times enter into joint ventures with Spanish companies, creating a new entity where both foreign and Spanish companies invest and share control. These partnerships are valuable for leveraging local knowledge and networks, especially in industries where local expertise is key.

Portfolio Investments: This form of investment involves foreign investors buying stocks or bonds of Spanish companies. While it does not entail direct operational control, it represents a significant financial stake in Spanish businesses.

Real Estate Investments: Investing in Spanish real estate, whether for commercial or residential purposes, is another avenue of FDI. This is especially attractive and common in areas with high tourism or commercial potential.

Franchising and Licensing: Foreign companies sometimes engage in franchising or licensing with Spanish entities. This allows Spanish franchisees to operate under the foreign company's brand and offer its products or services, expanding the foreign company's reach within Spain.

3. Are foreign investors allowed to own 100% of a domestic company or business? If not, what is the maximum percentage that a foreign investor can own?

Yes, foreign investor are allowed to own 100% of a domestic company or business in Spain. However, it is important to note the Foreign Direct Investment (FDI) control mechanisms in place for non-EU/EFTA residents and for EU/EFTA residents controlled by non-EU/EFTA entities, as outlined by the Spanish Government's FDI screening regulations.

4. Are foreign investors allowed to invest and hold the same class of stock or other equity securities as domestic shareholders? Is it true for both public and private companies?

Yes, foreign investors have the ability to hold the same class of stock or other equity securities as domestic investors, subject to adhering to general market and FDI control regulations. This applies to both public and private companies in Spain.

5. Are domestic businesses organized and managed through domestic companies or primarily offshore companies?

Domestic businesses in Spain are primarily organized and managed through domestic companies, mainly due to the country's supportive regulatory environment, beneficial tax regime, and access to the European Union market. Operating as a domestic entity in Spain fosters investor confidence and aligns with legal and regulatory standards, making it more straightforward for businesses to access banking and financial services. Additionally, the Spanish government often offers incentives and support specifically targeted at domestic companies. While some businesses may use offshore structures for particular purposes, the general trend is towards domestically registered companies, in line with Spain's economic policies and EU compliance requirements.

6. What are the forms of domestic companies? Briefly describe the differences. Which form is preferred by domestic shareholders? Which form is preferred by foreign investors/shareholders? What are the reasons for foreign shareholders preferring one form over the other?

In Spain, the most common forms of domestic companies are the Limited Liability Company (*Sociedad de Responsabilidad Limitada* (S.L.)) and the Corporation or Join-Stock Company (*Sociedad Anónima* (S.A.)), with other types such as the *Sociedad Anónima Europea* (S.E.), the *Sociedad Regular Colectiva* (S.R.C or S.C.), the *Sociedad en comandita* (S. en Com. or S. Com.), or the

Sociedad Profesional (S.P.) are far less common.

Limited Liability Company (*Sociedad de Responsabilidad Limitada* (S.L.): Ideal for small to medium-sized businesses.

- Minimum share capital now only €1, with a liability towards creditors set at €3,000 until this amount is reached in capital and legal reserves.
- Shares are not publicly traded; transfer is more restricted.
- Simpler management and reporting requirements.
- Limited liability for shareholders.
- Preferred by Domestic Shareholders for its simplicity, reduced capital requirements, and suitability for smaller enterprises.
- Chosen by Foreign Investors for smaller, privately managed investments due to straightforward setup, lower initial capital requirement, and operational ease.

Corporation or Joint-Stock Company (*Sociedad Anónima* (S.A.): Suited for larger businesses.

- Requires a minimum share capital of €60,000.
- Shares can be traded publicly, allowing for easier capital raising.
- More complex management and reporting obligations.
- Limited liability for shareholders.
- Selected by Foreign Investors for larger investments, potential public listing, and flexible share dealings, due to scalability and the ability to raise capital through public or private offerings.

In conclusion, while S.L. is often preferred by domestic shareholders for its simplicity and newly reduced capital requirements, S.A. may be favored by foreign investors for larger investments and the flexibility it offers in share dealings and capital raising. The choice between these two forms depends largely on the scale of the investment and the specific business objectives.

7. What are the requirements for forming a company? Which governmental entities have to give approvals? What is the process for forming/incorporating a domestic company? What is a required capitalization for forming/incorporating a company? How long does it take to form a domestic company? How many shareholders is the company required to have? Is the list of shareholders publicly available?

Incorporating a company in Spain, particularly a Limited Liability Company (S.L.) or a Corporation or Joint-Stock Company (S.A.), involves a well-structured process.

Governmental Approvals and Requirements: The formation process starts with registration at the Commercial Registry (Registro Mercantil) and acquiring a tax identification number (NIF/CIF) from the Tax Agency (Agencia Tributaria). The Foreign Direct Investment (FDI) screening mechanism plays a crucial role, requiring mandatory authorization for specific transactions for non-EU/EFTA residents and for EU/EFTA residents controlled by non-EU/EFTA entities. This mechanism is not prohibitive but ensures investments align with national interests. Authorization is granted by either the Spanish Council of Ministers or the FDI authority, based on investment value and factors like government control of the investor, involvement in critical sectors, or past illegal activities. Investments may be scrutinized in sectors like critical infrastructure, defense, sensitive technologies, and others where national security or public order is a concern. Failure to comply with the FDI screening, known as gun jumping, can lead to transaction nullity, suspended rights, and potential fines.

Forming/Incorporating a Company: The basic process includes choosing a unique company name, drafting and signing the Articles of Association, opening a bank account for capital deposit, and formalizing the company through a notary-signed Deed of Incorporation. Registration with the Commercial Registry and obtaining a tax ID from the Tax Agency are essential final steps.

Required Capitalization: An S.L. can start with €1 capital, but with certain liability considerations until reaching a €3,000 threshold. An S.A. requires a minimum of €60,000 share capital.

Timeframe for Formation: Typically, forming a company takes a few weeks to a couple of months, influenced by the completion efficiency of each step and the company's structural complexity.

Number of Shareholders: Both S.L. and S.A. companies can be initiated with just one shareholder, with no upper limit on shareholder numbers.

Public Availability of Shareholder List: For S.L., shareholder details are not publicly accessible unless the entity has a single shareholder. For S.A., especially publicly listed ones, significant holdings and alterations are often disclosed.

8. What are the requirements and necessary governmental approvals for a foreign investor acquiring shares in a private company? What about for an acquisition of assets?

In Spain, the acquisition of shares in a private company is subject to a series of legal requirements and governmental approvals, primarily driven by the nature of the investment and the sector involved.

FDI Screening: Non-EU/EFTA residents and for EU/EFTA residents controlled by non-EU/EFTA entities must undergo a FDI screening process if the investment is in certain sensitive sectors. This includes areas like critical infrastructure, defense, sensitive technologies, and sectors with access to sensitive information. The screening mechanism aims to protect national security and public order and requires authorization from the Spanish Council of Ministers or the FDI authority.

Registry and Notification: Investors must register the investment with the Registry of Foreign Investments of the Ministry of Industry, Trade, and Tourism. For certain sectors, prior notification or authorization may be required, especially where public order or safety is concerned.

Tax Identification Number (NIF): Foreign investors need a Spanish tax identification number to engage in most economic activities, including the acquisition of shares.

Anti-Money Laundering Checks: Investors may be required to comply with due diligence and anti-money laundering regulations, ensuring the legitimacy of the funds and the identity of the investor.

On the other hand, the acquisition in Spain, the acquisition of shares by a foreign investor may also be subject to a series of legal requirements and governmental approvals.

FDI screening: The acquisition of assets in Spain does not always require direct investment (FDI) screening. However, if the assets are integral to critical sectors, they may be subject to the same level of FDI scrutiny as is applicable to share acquisitions.

Property Registration: If the acquisition involves real estate, registration in the local property registry is necessary. This process ensures the legal transfer of ownership and the existence of any encumbrances or liens.

Environmental and Planning Approvals: Acquiring certain types of assets may require environmental assessments and planning permissions, especially if the assets are related to real estate, construction, or industries with significant environmental impacts.

Sector-Specific Approvals: Depending on the nature of the assets, additional approvals may be required from relevant regulatory bodies, especially for regulated sectors like telecommunications, energy, and finance.

9. Does a foreign investor need approval to acquire shares in a public company on a domestic stock market? What about acquiring shares of a public company in a direct (private) transaction from another shareholder?

In Spain, the requirements for foreign investors acquiring shares in public companies, whether through the domestic stock market or via direct (private) transactions, vary based on several factors, including the investor's origin, the size of the stake being acquired, and the sector in which the company operates.

Acquiring Shares in a Public Company on a Domestic Stock Market:

General Market Regulations: Generally, foreign investors do not need special approval to buy shares in public companies listed on the Spanish stock market. They are subject to the same conditions and regulations as domestic investors, including compliance with market abuse and insider trading regulations. However, if the public company operates in a sensitive sector (such as defense, critical infrastructure, or technology), and the investment meets certain thresholds (e.g., acquiring a significant stake or gaining control of the company), the transaction may be subject to FDI screening.

Notification Requirements: Even if no specific approval is needed, foreign investors may still need to notify regulatory bodies, such as the National Securities Market Commission (CNMV), especially if acquiring significant shareholdings that could influence corporate control.

Acquiring Shares of a Public Company in a Direct (Private) Transaction:

FDI Screening: Similar to public market acquisitions, private transactions for shares in public companies might trigger FDI screening if the company is in a sensitive sector and the investment meets specific criteria. The investor's background, the transaction's nature, and the company's strategic importance will be considered.

Mandatory Tender Offer: If the acquisition leads to the investor obtaining a significant percentage of the company's voting rights (usually 30% or more), Spanish securities law may require the investor to launch a mandatory tender offer for the remaining shares, subject to CNMV regulations.

Notification and Disclosure: The investor must disclose their stake to the CNMV and the public company once it exceeds certain thresholds. This disclosure is crucial for market transparency and might influence the company's management and strategy.

10. Is there a requirement for a mandatory tender offer if an investor acquired a certain percentage of shares of a public company?

Yes, in Spain, there is a requirement for a mandatory tender offer if an investor acquires a certain percentage of shares of a public company. This is regulated under Spanish securities law to ensure fair treatment of all shareholders and transparency in the market. The investor must notify the National Securities Market Commission (CNMV) upon reaching this threshold. There are some exemptions, but generally, this obligation ensures transparency and fairness when significant ownership changes occur.

11. What is the approval process for building a new facility in the country (in a greenfield or brownfield project)?

In Spain, constructing a new facility, whether on unused (greenfield) or previously developed (brownfield) land, entails a multi-stage approval process aligned with various levels of regulations. This process begins with due diligence to ascertain land suitability, zoning status, and environmental impact. Subsequently, planning permission is sought from the local municipality, which may involve additional review for larger or more sensitive projects. Upon obtaining planning permission, a building permit is required to ensure compliance with safety and regulatory standards. Throughout the construction phase, ongoing compliance with building codes is mandatory, involving periodic inspections. The process culminates in securing a certificate of occupancy following a final inspection, affirming the facility's readiness for operation.

12. Can an investor do a transaction in the country in any currency or only in domestic currency? a) Is there an approval requirement (e.g. through Central Bank or another governmental agency) to use foreign currency in the country to pay: i. in an acquisition, or, ii. to pay to contractors, or, iii. to pay salaries of employees? b) Is there a limit on the amount of foreign currency in any transaction or series of related transactions? i. Is there an approval requirement and a limit on how much foreign currency a foreign investor can transfer into the country? ii. Is there an approval requirement and a limit on how much domestic currency a foreign investor can buy in the country? iii. Can an investor buy domestic currency outside of the country and transfer it into the country to pay for an acquisition or to third parties for goods or services or to pay salaries of employees?

In Spain, investors can conduct transactions in foreign currencies, including for acquisitions, payments, and salaries, though the euro is commonly used. While there are no strict limits or approval requirements for using or transferring foreign currencies into the country, significant transactions may be monitored or reported to the Bank of Spain, particularly under anti-money laundering regulations. Investors have the flexibility to buy euro and transfer funds into Spain for various purposes.

13. Are there approval requirements for a foreign investor for transferring domestic currency or foreign currency out of the country? Whose approval is required? How long does it take to get the approval? Are there limitations on the amount of foreign or domestic currency that can be transferred out of the country? Is the approval required for each transfer or can it be granted for all future transfers?

In Spain, foreign investors generally do not need specific approvals to transfer domestic or foreign currency out of the country, reflecting free capital movement principles within the European Union. However, financial institutions may monitor and report large or unusual transactions to the Bank of Spain for anti-money laundering purposes. While there are no statutory limits on the amount that can be transferred, significant transfers might trigger additional checks. As specific approvals are not typically required, there is usually no waiting period for transfers, nor is there a need for approval for each individual transfer, making the process relatively straightforward for investors.

14. Is there a tax or duty on foreign currency conversion?

In the context of Spain's financial regulations, there is no specific tax or duty levied on the conversion of foreign currency. It is pertinent to note, however, that while the act of currency conversion is free from any specific government-imposed tax or duty, other related financial activities may be subject to taxation under Spanish law. For instance, capital gains resulting from foreign exchange trading or profits from international investment activities may attract relevant taxes.

15. Is there a tax or duty on bringing foreign or domestic currency into the country?

In Spain, there is no tax or duty on bringing foreign or domestic currency into the country. However, travelers and investors carrying amounts over €10,000 must declare this to Spanish customs, as part of standard anti-money laundering regulations. While no customs duty is charged on the currency itself, standard banking procedures apply for large deposits. It is also important to remember that any income or gains generated from these funds within Spain may be subject to Spanish tax laws.

16. Is there a difference in tax treatment between acquisition of assets or shares (e.g. a stamp duty)?

The tax treatment for acquisitions varies between assets and shares. Asset acquisitions generally incur Value Added Tax (VAT) or Transfer Tax, particularly for real estate, with rates depending on the asset type and region. In contrast, share acquisitions are not usually subject to VAT or Transfer Tax, but may attract Stamp Duty, especially if involving significant assets like real estate. While share transactions can be more tax-efficient, factors like potential Stamp Duty, Capital Gains Tax, and specific tax benefits or liabilities for both assets and shares should be carefully considered.

17. When is a stamp duty required to be paid?

In Spain, stamp duty, known as "*Impuesto de Actos Jurídicos Documentados*" (AJD), is required in specific instances, predominantly in property-related transactions and corporate activities. This duty is applicable when purchasing property where a notarial deed is involved, with the rate varying by autonomous community. Additionally, it is due on mortgage deeds, calculated on the total mortgage liability. In the corporate domain, AJD applies to the issuance of certain notarized and registered corporate documents, such as the formation of a company or capital increases. The duty also extends to a range of other public, commercial, and administrative documents that require registration.

The rate of AJD varies, typically being a percentage of the transaction value or a fixed fee, depending on the transaction or document type.

18. Are shares in private domestic companies easily transferable? Can the shares be held outside of the home jurisdiction? What approval does a foreign investor need to transfer shares to another foreign or domestic shareholder? Are changes in shareholding publicly reported or publicly available?

In Spain, the transferability of shares in private domestic companies, particularly Limited Liability companies (S.L.), is subject to certain restrictions and conditions, making them less fluid compared to shares in public companies. The Law and often the Articles of Association of the S.L. include pre-emption rights or other clauses that can restrict share transfers, requiring approval from other shareholders or the company's administrative body. For Corporations or Joint-Stock Companies (S.A.), share transfers are generally more straightforward, especially if they are not publicly traded.

Shares can be held outside of the Spanish jurisdiction, but the transfer process and holding structure must comply with both Spanish regulations and the regulations of the jurisdiction where the shares are held. In terms of approval for transferring shares to another foreign or domestic shareholder, it largely depends on the company's internal regulations and the nature of the shares. No specific government approval is usually required for such transfers unless the company operates in a regulated sector that imposes additional restrictions.

Changes in shareholding in private companies are not typically publicly reported or available, especially for S.L. companies. However, for S.A. companies, especially those listed or with public trading of shares, significant shareholding changes are more likely to be publicly disclosed.

19. Is there a mandatory FDI filing? With which agency is it required to be made? How long does it take to obtain an FDI approval? Under what circumstances is the mandatory FDI filing required to be made? If a mandatory filing is not required, can a transaction be reviewed by a governmental authority and be blocked? If a transaction is outside of the home jurisdiction (e.g. a global transaction where shares of a foreign incorporated parent company are being bought by another foreign company, but the parent company that's been acquired has a subsidiary in your jurisdiction), could such a transaction trigger a mandatory FDI filing in your jurisdiction? Can a governmental authority in such a transaction prohibit the indirect transfer of control of the subsidiary?

Yes, there is a mandatory Foreign Direct Investment (FDI) filing system in place -for non-EU/EFTA residents and for EU/EFTA residents controlled by non-EU/EFTA entities- designed to balance the openness to foreign investment with the need to safeguard national security and public interests, particularly for investments in certain sectors and under specific circumstances. This system was notably updated in 2023.

Mandatory FDI Filing and Approval Process: The filing is typically made with the Spanish Ministry of Industry, Trade, and Tourism. Depending on the investment's size and sector, the authorization may involve the Council of Ministers or the FDI authority itself.

Approval Duration: The time taken to obtain FDI approval can vary. As per the new regulations introduced by Royal Decree 571/2023, the legal term for issuing decisions related to the FDI screening mechanism is reduced from six to three months. If no decision is issued within this timeframe, the FDI authorization request is deemed to be rejected.

Circumstances for Mandatory Filing: FDI filings are mandatory for non-EU/EFTA residents and EU/EFTA residents beneficially owned by non-EU/EFTA residents in certain conditions. These include investments in sensitive sectors like critical infrastructure, critical technologies, supply of critical inputs, media, and sectors with access to sensitive personal data. Also, when the investor acquires a stake equal to or greater than 10% of the share capital of a Spanish company or acquires effective control over it, filing is required.

Review and Blocking of Transactions: Even if a mandatory filing is not required, certain transactions can still be reviewed by the government. If a transaction is deemed to threaten national security, public order, or public health, the government has the authority to review and potentially block it.

Global Transactions and Indirect Transfer: For global transactions, where shares of a foreign-incorporated parent company are being bought by another foreign company, and the parent company owns a subsidiary in Spain, such a transaction could trigger a mandatory FDI filing in Spain. This is particularly true if the transaction results in a change of control of the subsidiary in a sensitive sector. In such cases, the Spanish government has the authority to prohibit the indirect transfer of control of the subsidiary if it poses risks to national interests.

Gun Jumping: Failure to comply with the FDI screening can lead to transaction nullity, suspended rights, and potential hefty fines.

20. What are typical exit transactions for foreign companies?

Foreign companies typically have several options for exit transactions in Spain depending on their investment goals and market conditions, which align with global practices.

One common approach is selling the business or shares to a strategic buyer, often a company within the same or a complementary industry, which allows for market expansion and consolidation. Another frequent option is divestment to private equity or financial buyers, attracting entities looking to develop and later sell the business for profit.

For larger and more established investments, an Initial Public Offering (IPO) is a viable exit route, offering the opportunity to sell shares to the public on a stock exchange. Alternatively, management buyouts (MBOs), where the company's management team acquires the business, are also considered, especially with external financial support.

Asset sales, focusing on specific parts of the business rather than the whole entity, and mergers with other companies, providing mutual benefits and synergies, are other typical exit strategies. In scenarios where these options are not suitable, liquidation of the Spanish subsidiary or business unit may be the final recourse.

21. Do private companies prefer to pursue an IPO? i. on a domestic stock market, or ii. on a foreign stock market? iii. If foreign, which one?

According to the data made available by BME Growth and Iberclear, the Spanish market has seen a modest number of Initial Public Offerings (IPOs) in recent years. The market data indicates that sectors such as Socimi (real estate investment trusts) have been more active, with a cumulative total of 50 IPOs over a span of six years, while sectors like IT and Investment Management have seen a total of 7 and 9 IPOs respectively. These figures highlight a cautious approach to public listings among Spanish private companies, with a preference for alternative exit strategies or private funding rounds.

The observed trend suggests that while an IPO is a strategic option for growth and exit, it is not the predominant choice for many Spanish businesses. For instance, the renewable energy sector, despite its growth potential, has seen a relatively low number of IPOs, totaling just 5 over the same period.

22. Do M&A/Investment/JV agreements typically provide for dispute resolution in domestic courts or through international arbitration?

In Spain, agreements involving mergers and acquisitions (M&A), investments, and joint ventures (JVs) with foreign investors typically feature dispute resolution clauses that favor international arbitration over domestic courts. This preference stems from arbitration's benefits of faster resolution, greater confidentiality, and control over the process, and the ability to select arbitrators with specialized expertise.

While the International Chamber of Commerce (ICC) is a well-known institution for such arbitrations, the *Centro Internacional de Arbitraje de Madrid* (CIAM) has also become a reputable choice, offering services that meet international standards with the added convenience of location for disputes connected to Spain.

23. How long does a typical contract dispute case take in domestic courts for a final resolution?

In Spain, the timeframe for resolving a typical contract dispute in domestic courts can take from one to two years at first instance. This process can be lengthened if the case goes to appeal, with the provincial appellate courts adding another one to two years, and a potential further appeal to the Supreme Court extending the timeline by several additional years. Complex cases may take five years or more for a final resolution when all legal appeals are considered.

Given these timeframes, which can be impacted by the court's workload and the intricacies of the dispute, parties often seek alternative dispute resolution methods.

24. Are domestic courts reliable in enforcing foreign investors rights under agreements and under the law?

Spanish courts are recognized for their reliability in upholding the rights of foreign investors, operating under a legal system that respects the rule of law and contractual obligations. As part of the European Union, Spain aligns with international standards and treaties, ensuring that foreign investors' rights under agreements and the law are enforced with due diligence and fairness.

The legal framework in Spain, bolstered by Spain's commitment to international agreements like the New York Convention, provides a solid foundation for the protection of foreign investments. While legal complexities can arise, the judiciary's independence and the country's adherence to EU directives contribute to the overall reliability of the Spanish courts in these matters.

25. Are there instances of abuse of foreign investors? How are cases of investor abuse handled?

Instances of abuse against foreign investors are uncommon, thanks to the country's robust legal system and commitment to international business and investment standards. Should such instances occur, they are addressed through well-established legal channels. Affected investors can seek redress in Spanish courts, which are capable of handling commercial disputes involving foreign entities, including enforcing contractual rights and awarding damages.

Furthermore, many investment agreements feature arbitration clauses, allowing disputes to be resolved through national or international arbitration. This provides an effective alternative to traditional court proceedings, often ensuring a more expedient and expert resolution. Spain's adherence to EU regulations and international treaties like the New York Convention bolsters these mechanisms, ensuring foreign investors have access to fair and efficient means of addressing grievances.

26. Are international arbitral awards recognized and enforced in your country?

In Spain, international arbitral awards are recognized and enforced consistently, aligning with the country's commitment to international arbitration norms. As a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, Spain ensures that arbitral decisions made in other signatory countries are acknowledged and enforceable within its jurisdiction, subject to certain procedural requirements and conditions.

The enforcement process typically involves the party seeking enforcement to apply to the Spanish court, which then reviews the award to ensure it complies with both the New York Convention standards and Spanish law. The courts generally exhibit a pro-arbitration stance, barring any significant legal impediments such as violations of public policy.

27. Are there foreign investment protection treaties in place between your country and major other countries?

Spain maintains a robust network of Bilateral Investment Treaties (BITs) with countries globally, including significant agreements like the "Treaty between the United States of America and the Kingdom of Spain" and the "Agreement between the Kingdom of Spain and the People's Republic of China on the Promotion and Reciprocal Protection of Investments." These BITs are designed to protect and promote foreign investments, offering provisions for fair treatment, protection from expropriation, and mechanisms for dispute resolution, thereby enhancing investor confidence and legal security.

Contributors

Xavier Costa Arnau
Partner

x.costa@rocajunyent.com