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## Venezuela

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### A. Legislation and rules

#### A.1 Legislation

International arbitration in Venezuela continues to be governed by the Commercial Arbitration Law, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 36.430 of 7 April 1998, to which no legislative amendment has since been made.

#### A.2 Institutions, rules and infrastructure

In Venezuela there are two arbitration centers: the Caracas Chamber of Commerce Arbitration Center (“CCC”) and the Business Center for Conciliation and Arbitration (“CEDCA”). Both have their head offices in Caracas and do not have regional offices in the rest of the country. However, there are other organizations at the regional level that provide support to CCC and CEDCA in case it is necessary to administer arbitration outside Caracas.

On 1 February 2013, the current Regulation of the CCC came into force, which was modified in 2016 to adjust administrative and

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arbitrators' fees for inflation. Amendments are currently in force and have not been modified recently.

On 25 March 1998, the first Regulation of CEDCA came into force. The 2013 Regulation is currently in force and has not been modified recently. Additionally, CEDCA has an appendix of costs and fees that was modified in December 2017.

## B. Cases

### B.1 *Banco de Desarrollo Económico y Social de Venezuela* (“BANDES”) v. *Banco Espíritu Santo, S.A* (“BES”) y *Novo Banco* (“NV”)

BANDES sued BES and NV for the nullity of Espíritu Santo International's liabilities sale, challenging the contract because, at the time of the sale, Grupo Espirito Santo did not reveal they had serious financial problems.

BES and NV alleged the Venezuelan courts did not have jurisdiction in this matter because, among other things, they were notified of an investment arbitration process by BANDES, which, in turn, triggered the Bilateral Investment Treaty between Venezuela and Portugal and implied a waiver of the exercise of any other claim.

On 29 November 2017, the Political-Administrative Chamber of the Supreme Court established that it did not appear the relevant contract had an arbitration clause and that BANDES had decided to start arbitral proceedings based on the Treaty. The importance of this decision lies in the fact that the Court considered that the disputed contract was a public interest contract and the Venezuelan courts had jurisdiction according to the Calvo Doctrine established in Article 151 of the Venezuelan Constitution.

## C. Funding in international arbitration

Venezuela currently has no regulation regarding international arbitration funding. Therefore, it appears that there is no impediment



to use to it, for example, through the assignment of litigious rights according to Articles 1549 and 1557 of the Venezuelan Civil Code. However, there is no case law, commentary or provisions in the applicable arbitration rules governing this matter.