Paper Title:[*] "Recognition of foreign judgments in Brazil, with a special note on arbitral awards: the practice of the Superior Court of Justice and the Code of Civil Procedure of 2015"[i]

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I. Introduction.

This paper aims to provide a current overview of the mechanism for recognition and enforcement of foreign judgments, with a special note on arbitral awards in Brazil.

According to Brazilian law, as stated in the Code of Civil Procedure of 2015[ii] ("CCP", Law 13,105/2015), Articles 960 to 965, all foreign decisions, and that includes foreign arbitral awards – as they are equivalent to judicial decisions –, must undergo a recognition procedure known as "*ação de homologação de sentença estrangeira"*, in order to be able to have any effects in the country. Thus, only after proper recognition through this action will the arbitral award be capable of enforcement, which shall take place before the competent Federal Court[iii] of the place of domicile of the respondent. With regard specifically to arbitral awards, Brazil is a party to the New York Convention (Convention on the Recognition and Enforcement of Foreign Arbitral Awards) since 2002 ("NYC"),[iv] but prior to that the Brazilian Arbitration Law ("BAL", Law 9,307/1996) had adopted provisions very similar to those of the NYC. The particularities of the applicable procedure are set forth in the CCP and in the Internal Regulations of the Superior Court of Justice (*Superior Tribunal de Justiça* or "STJ"[v]), which is the judicial body that has jurisdiction over all recognition requests.

An important feature of Brazilian law on arbitration is that according to Article 34, sole paragraph, BAL[vi], an award is considered domestic or foreign as per a geographical criteria. That is to say that if the arbitral award is rendered in Brazil (which will normally be the case when Brazil is the seat of the arbitration), it will be treated as a domestic award, no matter the concurrence of international elements. Thus, the award will be treated as a domestic arbitral decision, enforceable as if it were a domestic judicial decision, and no other action will be necessary to enforce it. However, if the award is rendered in a foreign country, it is deemed to be foreign and shall be confirmed/recognized[vii] by the Superior Court of Justice before the

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enforcement. This is an aspect to be considered when negotiating an arbitration clause in an international contract, since the procedure for recognition can take a long time (one to three years, depending on the complexity of the award). Therefore, it can be wise, if enforcement in Brazil is envisaged or desired, to provide that the arbitration seat will be in Brazil and that the award shall be rendered in said country.

Furthermore, this paper will also analyze the current interpretation given by the STJ regarding foreign arbitral awards. Since 2004, when it started to rule on these matters, the Court has decided roughly one hundred cases of arbitral awards, granting recognition of 90% of them. Thus, our analysis will conclude that albeit a few minor setbacks and a lengthy process, the overall situation in Brazil is positive as regards recognition and enforcement of foreign arbitral awards.

II. Recognition of foreign judgments and arbitral awards in Brazil: concepts and characteristics.

Article 105(I)(i) of the Brazilian Federal Constitution provides that the STJ is the competent court to recognize foreign judgments[viii]. This provision was included by a 2004 constitutional amendment, which came into force in January 2005. Previously, the Brazilian Supreme Court (*Supremo Tribunal Federal* or "STF") was the competent court to decide on recognition of foreign judgments. However, an appreciated reform of the Judiciary, aimed at reducing the number of proceedings before the Supreme Court that were not directly related to constitutional matters, led to the conveyance of jurisdiction to the STJ.

Some private international law matters are regulated by the new CCP, especially as concerns international procedural law and international cooperation in judicial and administrative matters. This was also a welcomed legislative innovation as, until 2016, the subject was governed by an outdated 1942 federal statute. In fact, such statute, the Law of Introduction to the Norms of Brazilian Law,[ix] had only a couple of articles establishing the requirements for recognition of foreign judgments. The abrogated 1973 CCP had only one article on the subject (Article 483). The procedure was therefore mostly governed by the Internal Regulations of the STJ, which had some degree of instability, as the Court could amend these at any time as per an internal administrative procedure.

In the Brazilian system, the difference between the recognition of foreign judicial decisions and foreign arbitral awards is that the latter is governed by the provisions of the BAL and of the applicable conventions, in particular the NYC. The CCP is applicable as a supplementary source, as provided for in its Article 960[x]. However, in practice, the requirements set forth by the CCP for recognition and enforcement of foreign decisions are considered, in the majority of the STJ's decisions concerning foreign arbitral awards, as the applicable legal framework as regards compliance with the recognition requirements. Unfortunately, the STJ seems unaware that the NYC should be applied, and refers mainly to the CCP regulations.

The system for recognition of foreign judgments in Brazil is a *giudizio di delibazione*, which is inspired by the Italian model. This model implies no assessment of the *merits* of the foreign judgment or of the underlying dispute, but does ensure the fulfillment of certain formal requirements and allows for a perfunctory evaluation of the merits only as necessary to allow identification of any manifest offense to the Brazilian international public policy (*ordre public*), or to national sovereignty or good mores (in practice the public policy concept encompasses national sovereignty and good mores).

The STJ clarified over the years the extension of such requirements and established a few instances of application of the public policy exception to the recognition of foreign judgments and arbitral awards. Apart from such narrowly construed public policy exception, the respondent may allege, in its request, only lack of compliance with formal requirements which do not delve into the merits of the foreign judgement[xi]. Particularities of arbitral awards, as concerns the grounds for denial of recognition and enforcement provided for in the BAL and in the NYC will be dealt with below.

After the STJ grant of the request, the foreign judgment or arbitral award will be equivalent to an internal judicial decision and shall be considered a judicial title for enforcement as per Article 515, VIII, of the CCP. The creditor shall therefore be entitled to file for enforcement in accordance with Brazilian law (Article 523 *et seq* of the CCP).

Hence, in Brazil, recognition and enforcement of a foreign arbitral award is a two-stage procedure before different courts: (i) first, recognition is processed before, and granted by, the STJ, whereas subsequently (ii.a) enforcement may be processed before the competent federal court of first instance and (ii.b) recognition for purposes other than enforcement (e.g., for substantiating a *res judicata* defense) may be alleged by the interested party before any court as necessary.

III. Requirements for Recognition of Foreign Judgments in Brazil.

The new CCP establishes six requirements which shall be met for the recognition of a foreign judgment. They are cumulative requirements, which means that if any of them is not fulfilled, recognition shall be refused. Some of such requirements are ill-adapted and hardly applicable to arbitral awards, as will be seen below. Also, in the case of arbitral awards, the party opposing recognition has the burden of alleging and proving the occurrence of at least one of the grounds for refusal of recognition and enforcement provided for in the BAL, which basically mirrors the relevant provisions of the NYC.

Although at first sight each of the CCP's requirement seems to be simple and straight-forward, in fact they all require a deeper assessment. The STJ has interpreted the meaning and reach of such requirements for many years, and a few outlines for the fulfilment of them are described below, albeit not exhaustively.[xii]

The request for the recognition of a foreign judgment shall be filed electronically and addressed to the Chief Justice of the STJ.[xiii] No security, bond or deposit is due from the requesting party, even when it is a foreign citizen or legal entity or has residence or domicile abroad. Thus, the claimant of recognition of an arbitral awards enjoys the same prerogative, which is in line with Article III of NYC, as no bond is required when enforcing domestic awards.

Once served, the party against whom recognition is sought has a fifteen-day term to raise (and electronically file) his or her defense.[xiv] If a defense is submitted, the proceeding is re-assigned to one of the Justices who is a member of the Special Court (*Corte Especial*) of the STJ.[xv] The Special Court includes the fifteen most senior Justices of the court and the Chief Justice and, among other attributions, is responsible for deciding recognition requests when a defense has been presented by the defendant. As a general rule, decisions issued by the Special Court are collective. However, the *rapporteur* may decide alone in those cases where there exist established precedents of the Special Court of the STJ with respect to the topic in discussion.[xvi/xvii]

If the party against whom recognition is sought is not found to be served for process, either in the country or abroad, the party seeking recognition will have to demonstrate that all reasonable means of establishing the party's location was unsuccessful. In this case, the defendant shall be presumptively served through publication in an official gazette.[xviii]

When recognition is granted, the foreign decision shall have the same effects as it should have in the State of origin, unless there exists a manifest incompatibility with Brazilian public policy.[xix] In cases where part of the foreign decision complies with the applicable legal requirements, the STJ will grant recognition of the compliant part, and as a consequence will grant partial effects to the relevant foreign judgment (Article 961, second paragraph, CCP). Partial recognition is not uncommon and has been expressly provided in the applicable regulation since 2005, by Resolution no. 9 of the STJ.[xx]

It should be noted that the STJ may not add any effect or provision to the foreign decision, but rather shall limit itself to totally or partially confirm the foreign decision as originally rendered.

III.A. Jurisdiction of the Foreign Authority

The first requirement is that the authority who rendered the decision shall have jurisdiction over the matter (Article 963, I, CCP). The reference made in the CCP is to the "competent authority", and not to the "competent judge", as previously stated in the Law of Introduction to the Norms of Brazilian Law. This change of terminology was made to clarify that the entity issuing the decision in the State of origin does not necessarily need to be formally part of the local judiciary. To mention some examples, the STJ considered that the "competent authority" could be a Civil Registry in Denmark, the City Hall of Kanagawa city, Japan, or the Notary Office in Bogota, Colombia.

As concerns arbitral awards, this requirement shall be understood as an appreciation of the correct establishment of the arbitrators' authority, inquiring if the private jurisdiction was exercised within the limits of the arbitral agreement.[xxi] If the answer is negative, recognition shall be denied, due to the lack of jurisdiction of the arbitral tribunal[xxii].

In Brazilian law, international jurisdiction is regulated by Articles 21 through 25 of the CCP. These provisions define the limits of Brazilian jurisdiction to adjudicate by defining instances of exclusive and concurrent jurisdiction. Foreign decisions, including arbitral awards, shall not be confirmed/recognized, as per Article 964 CCP, when Brazilian courts have exclusive jurisdiction over the matter. This is typically the case when a foreign decision rules on an *in rem* suit, concerning real estate located in Brazil. In the reviewed case law, the STJ has not denied recognition of an arbitral award based on the exclusive jurisdiction exception.

Brazilian law does not recognize international *lis pendens***.** Therefore, recognition shall not be denied if a similar suit is pending before a Brazilian court, involving the same parties and the same cause of action.[xxiii] As long as the Brazilian judgment does not become *res judicata*, recognition of a foreign decision on the same subject-matter may be granted by the STJ.[xxiv] The first-in-time *res judicata* has priority.

This should not be applicable for arbitral awards, as the agreement to arbitrate precludes the jurisdiction of any court, either Brazilian or foreign. Thus, if a Brazilian court is seized of an action encompassed by an arbitration agreement, it shall refuse to proceed and refer the parties to arbitration without any inquiry as to the validity or efficacy of said agreement, applying the *competence-competence* principle and recognizing the negative effect of the arbitration agreement. This is a position which is even more arbitration-friendly than that adopted by the NYC in its Article II, 3, whereby the court of a member-State shall refer the parties to arbitration unless it finds that the arbitration agreement is null and void, inoperative or incapable of being performed. In Brazil, the appreciation of such circumstances in incumbent on the arbitral tribunal in the first place.

III.B. Service of Process and the Due Process Requirement.

Service of process and observation of due process are the second requirement provided for in the Brazilian law.[xxv] The STJ will examine if the parties were duly notified of the filing of the suit (or of the arbitration request and constitution of the tribunal) and if process was duly served in case the party did not appear to defend itself (Article 963, II, CCP). If, notwithstanding the lack of proper notice, a party spontaneously appears before the foreign court and takes part in the case with an appropriate opportunity to defend, the due process requirement concerning service of process is considered as fulfilled.[xxvi]

Recently the STJ mitigated a long-time understanding that the defendant domiciled in Brazil must be served through letter rogatory to defend itself before a foreign court. In cases where the parties have agreed in their international contract that service should be made by mail, and there was enough evidence that the defendant was duly served by such means, the STJ

has considered the requirement fulfilled.[xxvii] Such understanding is consistent with the parties' agreement and is also in accordance with the Brazilian law with respect to service by mail in internal judicial cases. Service of process in Brazil by foreign consular or diplomatic representatives or by private parties (such as an attorney) is considered as not acceptable.

As concerns foreign arbitral awards, Article 39 BAL, sole paragraph, allows service in Brazil by the means contractually agreed upon, provided that the Brazilian party is granted proper time to present its defense. In fact, the STJ had long confirmed that, in an international arbitral proceeding, the Brazilian party does not need to be served by letter rogatory; service by mail is permitted since arbitral tribunals are private bodies.[xxviii] In the cases reviewed, the STJ has never invoked Article V, 1, *b* of the NYC.

III.C. Enforceability of the Foreign Decision

The third requirement is that the foreign judgment "has efficacy" in the country where it was rendered (Article 963, III, CCP). This should be understood as bearing the quality of *res judicata*, even if the judgment or award can in theory be rescinded or annulled as per the law of the country of origin. Notwithstanding, in one case the Court has decided that the character of *res judicata* may be recognized and proven in different ways in other legal orders and that the important point here is that the judgment is final and is formally capable of enforcement in the country where it was rendered.[xxix].

In the case of arbitral awards, the requirement of enforceability of the award in the State of origin cannot be interpreted as to impose the need of a previous recognition of the award in that State, which would be tantamount to a completely out of date "double exequatur" and against the spirit of the NYC and domestic law. Therefore, the requirement is fulfilled when the arbitral award is final and binding on the parties, regardless of its formal enforceability in the State of origin.

Finally, if there is a judicial order in force in the State of origin, suspending the effects of the arbitral award or setting it aside, the foreign arbitral award in principle should not be recognized in Brazil (Article 38, item VI, BAL and Article 5, I, "e", NYC).

III.D. Formalities.

The fourth requirement determines that the foreign decision shall be accompanied by an official translation, unless it is dispensed with by treaty (Article 963, V, of CCP).

Specifically, as concerns the need for legalization (i.e., confirmation of authenticity by a notary public and a consular officer), it is relevant to mention that since 2016 Brazil has been a party to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents (the Apostille Convention)[xxx]. Therefore, documents which are certified in accordance with the Apostille Convention are exempt from the requirement of consular legalization formalities[xxxi].

For foreign arbitral awards, the NYC Article IV, 1, requires that the requesting party produces an original or an authenticated copy of the award and the arbitration agreement. It also requires a duly certified translation, if the award is in a foreign language (Article IV, 2). Thus, the above criteria of Brazilian law are in line with the NYC.

III. E. Public Policy.

Finally, the decision shall not contain a violation of public policy (Article 963, VI, of CCP). As it is widely accepted, the public policy defense should be used exceptionally in Brazil, and only in those cases where the foreign decision is manifestly incompatible with Brazilian international public policy[xxxii]. This exception shall be understood in the same manner as provided for in the NYC, Article V, 2, "b", notwithstanding the fact the STJ, in its decisions, do not mention the conventional provision as applicable, but rather the CCP's similar provision.

From 2005 until December of 2018, STJ has received 94 requests for recognition of foreign arbitral awards. Among them, only 10 were denied and 1 partially granted. In these circumstances, public policy was the cause for denial in 3 cases[xxxiii], where there was no proof of acceptance of arbitration from the requested party. Instead of referring to Article IV, 1, *"b*" of the NYC, the STJ preferred to apply the public policy exception[xxxiv].

Other reasons for the denial of recognition were associated with the violation of Brazilian national sovereignty[xxxv], the annulment of an arbitral award by the judiciary of the country of origin[xxxvi], the violation of the procedure provided for by the arbitration agreement and, more recently, the failure of the arbitrator to disclose information that could possibly affect his impartiality.

This last case, ruled in 2017, stands outs and deserves further clarification.

Abengoa v. Ometto[xxxvii] was a request for recognition of two foreign arbitral awards rendered in accordance with the arbitration rules of the International Chamber of Commerce by an arbitral tribunal seating in New York.

Among other issues raised as grounds for denial of recognition, the most relevant topic was that related to the impartiality and independence of the chair of the arbitral tribunal. This chair was a senior partner of a prestigious U.S. law firm, which had represented one affiliate of

Abengoa's in one case and received payments from Abengoa in another case, although not representing it in the latter. Although the chair of the tribunal was not involved in any of the cases, and was unable to timely identify them through the firm's channel for conflict checks, he had received legal fees indirectly, as a partner of the firm.

The position of the STJ was that the impartiality of the judge is one of the guarantees that arise from due process in Brazil which are protected as a public policy. For this reason, the judges of the STJ, by a majority vote, understood that the chair of the arbitration was in a questionable position as regards his impartiality and independence, as he had not disclosed that he indirectly profited from fees payed by Abengoa. The Court considered that such circumstance objectively violates public policy.

The conclusion from the analysis of STJ´s cases is that the public policy defense against the recognition of foreign judgements and arbitral awards, albeit extensively used by defendants, is rarely successful. The record shows that in most cases the public policy defense is not easily accepted by the STJ, notwithstanding exceptions such as the Abengoa precedent analyzed above.

IV. Conclusion.

This brief analysis of the Brazilian system and its case law leads to the conclusion that the role of the STJ is clearly not restricted to simply giving effect to any foreign judgement or arbitral award. The Court usually proceeds with a formal control of the foreign decision in light of the Brazilian legal system, making sure that its requirements are met.

The role of the Court is not mechanical; it involves reflection and interpretation of the reach and construction of each of the requirements in light of the Brazilian legal system.

In practice, in the vast majority of cases recognition is granted by the STJ, even if judgments issued in recent cases demonstrate that the Court is alert to reject decisions which are viewed as inconsistent and incompatible with the national legal system.

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T.A. ZAVASCKI, Jurisdição Constitucional do Superior Tribunal de Justiça, *Revista dos Tribunais*, Vol. 977, 2017, p.41 *et seq.*

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[i] The authors would like to thank **Caio Gomes de Freitas** for his helpful research and invaluable contribution to the revision of this paper.

[ii] Article 961 of the CCP provides that "a foreign decision shall only have legal effects in Brazil after its recognition, or the granting of the *exequatur* to letters rogatory, unless otherwise provided for by law or treaty".

[iii] As established in Article 965 of the CCP, "enforcement of a foreign judgment shall be brought before the competent federal court, at the request of the party, in accordance with the rules established for the enforcement of Brazilian decisions".

[iv] In Brazil, promulgated by Decree 4,311/2002.

[v] The STJ's jurisdiction is established in Article 105(I)(i) of the Brazilian Federal Constitution and reinforced by Article 35 of BAL, article 960, paragraph 2, of CCP and Article 216-B of the Internal Regulation of STJ.

[vi] Article 34 BAL: "Foreign arbitral awards shall be recognized or enforced in Brazil in accordance with the applicable international conventions in force at the internal legal system, or, in its absence, in strict accordance with this Law. *Sole paragraph:* A foreign award is the one rendered outside the national territory".

[vii] It should be noted that the Brazilian terminology for the procedure that makes a foreign judgement or award enforceable in Brazil is "homologação", a Portuguese word that means "the act of confirming something or making it equal to something" – i.e., confirming the foreign decision and making it equal to a domestic judgement or award. The authors understand that "recognition" refers to the effects of the judgement or award other than enforcement, such as, for instance, recognition as a valid ground for allegation of res judicata in a subsequent proceeding on the same subject, or recognition as a title able for registration before a public officer, where such act is required for the obtention of a certain right. However, in this article we

shall use the word "recognition" as equal to "homologação", for ease of reference and because such word has been used as such by Brazilian authors writing in English.

[viii] The STJ is a judicial body which was created by the 1998 Constitution and is the court responsible for the uniformization of the interpretation and application of federal law in Brazil. It is the highest court of justice for infra-constitutional matters. Additionally, the STJ is originally competent to decide certain matters as a sole instance, among which the recognition of foreign judgments.

[ix] In Portuguese, *Lei de Introdução às Normas do Direito Brasileiro*. Decree Law 4,657/1942, as amended.

[x] Article 960, paragraph 3, CCP: "The recognition of foreign arbitral decisions shall comply with the provisions of the applicable conventions and statutes, and subsidiarily the provisions of this Chapter".

[xi] See for exemplification (i) SEC 14,679, Special Court, *rapporteur* Justice Og Fernandes, date of judgment June 7, 2017; (ii) SEC 5,828, Special Court, *rapporteur* Justice João Otávio de Noronha, date of judgment May 19, 2013.

[xii] A recent account of the requirements for recognition of foreign judgments in Brazil was accurately made by R.F. BECKER, Homologação de decisão estrangeira: comentários aos Arts. 960 a 964 do CPC. In: S. RIBEIRO/ R.C. GOUVEIA FILHO/ I. PANTALEÃO/ L. GOUVEIA (eds.), *Novo Código de Processo Civil Comentado*: Tomo III – *Arts. 771 a 1072*, São Paulo, 2017.

[xiii] As per Article 216-A of the Internal Regulations of the STJ, the Chief Justice of the court is initially the competent authority for confirming a foreign decision. If however recognition is opposed by the defendant, then such competence shall be transferred to the Special Court, a collective body of 16 Justices of the STJ.

[xiv] Article 216-H of the Internal Regulations of the STJ.

[xv] Article 216-K of the Internal Regulations of the STJ.

[xvi] This is also in line with Article 927, V, of the CCP.

[xvii] See HDE 1,810, STJ, *rapporteur* Justice PAULO DE TARSO SANSEVERINO, date of judgment 25 October 2019.

[xviii] See (i) HDE 1,413, *rapporteur* Justice LAURITA VAZ, date of judgment 13 March 2018; (ii) HDE 196, *rapporteur* Justice LAURITA VAZ, date of judgment 5 March 2018.

[xix] As a general rule, but not specifically addressing this topic, see Article 17 of the Law of Introduction to the Norms of Brazilian Law. See J.C.B. MOREIRA, *Comentários ao Código de Processo Civil,* Vol. V, Articles 476 to 565, 16th ed., Ed. Forense, Rio de Janeiro, 2011.

[xx] Currently Article 216-A, paragraph 2, of the Internal Regulations of the STJ, after revocation of the said Resolution no. 9. See (i) SEC 2,410, STJ, Special Court, *rapporteur* Justice FRANCISCO FALCÃO (*rapporteur* of the leading opinion, Justice NANCY ANDRIGUI), date of judgment 18 December 2013; (ii) SEC 14,385, STJ, Special Court, *rapporteur* Justice NANCY ANDRIGUI, date of judgment 15 August 2018.

[xxi] In line with Article 38 BAL.

[xxii] See SEC 12,236, STJ, Special Court, *rapporteur* Justice MAURO CAMPBELL MARQUES, date of judgment 16 December 2015.

[xxiii] Article 24, sole paragraph, CCP: "The pendency of an action before a Brazilian court does not prevent the recognition of a foreign judgment when necessary for its enforcement in Brazil". See (i) RE nos EDCl on SEC 4,127, STJ, *rapporteur* Justice GILSON DIPP, date of judgment 10 February 2014; (ii) AgRg na SE 4,091, Special Court, *rapporteur* Justice ARI PARGENDLER, date of judgment 29 August 2012; (iii) AgRg on SEC 854, Special Court of STJ, *rapporteur* Justice NANCY ANDRIGHI, date of judgment 12 February 2011.

[xxiv] Absence of incompatibility with a Brazilian *res judicata* decision (Article 963, IV, of CCP) is another requirement for the recognition of foreign decisions and the burden of proof of such obstacle is on the party against whom recognition is sought.

[xxv] The constitutional principle of due process is established in Article 5, section LV, of the Brazilian Federal Constitution.

[xxvi] It is worth mentioning that Brazil has ratified the Hague Convention of 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Decree 9,734/2019), which is in force since June 1st 2019.

[xxvii] See (i) HDE 896, Special Court, *rapporteur* MARIA THEREZA DE ASSIS MOURA, date of judgment 16 May 2018; (ii) HDE 89, Special Court, *rapporteur* MARIA THEREZA DE ASSIS MOURA, date of judgment 18 October 2017.

[xxviii] For instance, see (i) SEC 10,702, Special Court, *rapporteur* Justice LAURITA VAZ, date of judgment 4 March 2015; (ii) SEC 8,847, Special Court, *rapporteur* Justice JOÃO OTÁVIO DE NORONHA, date of judgment 20 November 2013; (iii) SEC 6,760, Special Court, *rapporteur* Justice SIDNEI BENETI, date of judgment 25 April 2013.

[xxix] See SEC 15,886, Special Court, *rapporteur* Justice BENEDITO GONÇALVES, date of judgment 18 October 2017.

[xxx] Decree 8,660/2016, combined with Articles 2 and 3 of Resolution no. 228 of the National Council of Justice (*Conselho Nacional de Justiça*).

[xxxi] See (i) HDE 2,578, STJ, Special Court, *rapporteur* Justice MARIA THEREZA DE ASSIS MOURA, date of judgment 04 September 2019; (ii) HDE 330, STJ, Special Court, *rapporteur* Justice HERMAN BENJAMIN, date of judgment 7 November 2018; (iii) HDE 825, STJ, Justice LAURITA VAZ, date of judgment 18 September 2017;

[xxxii] With respect to Brazilian public policy, see N. DE ARAUJO, Direito Internacional Privado: teoria e prática brasileira, *Revista dos Tribunais*, 8th ed., São Paulo, 2019.

[xxxiii] See (i) SEC 967, Special Court, *rapporteur* Justice JOSÉ DELGADO, date of judgment 15 February 2006; (ii) SEC 866, Special Court, *rapporteur* Justice FELIX FISCHER, date of judgment 17 May 2006; (iii) SEC 978, Special Court, *rapporteur* Justice HAMILTON CARVALHIDO, date of judgment 17 December 2008.

[xxxiv] In these cases, nonetheless, the awards concerned very specific contracts for the sale of commodities, i.e. cotton or coffee.

[xxxv] SEC 826, STJ, Special Court, *rapporteur* Justice HAMILTON CARVALHIDO, date of judgment 15 September 2010.

[xxxvi] SEC 5,782, STJ, Special Court, *rapporteur* Justice JORGE MUSSI, date of judgment 02 December 2015.

[xxxvii] SEC 9,412, STJ, Special Court, original *rapporteur* Justice FELIX FISCHER (*rapporteur* of the leading opinion, Justice JOÃO OTÁVIO DE NORONHA), date of judgment 19 April 2017.