Convention on the Recognition and Enforcement of Foreign Arbitral Awards
(New York, 1958)

Article 1

This Convention applies to the recognition and enforcement of foreign arbitral awards. It shall apply to arbitral awards made in a country other than the country where enforcement is sought. It shall also apply to arbitral awards made in a country where enforcement is sought, if the parties agree.

The Convention provides for the recognition and enforcement of foreign arbitral awards in the following cases:

1. When the award is final and has become enforceable in the country where it was made.
2. When the award is final and has become enforceable in the country where enforcement is sought.
3. When the award is final and has become enforceable in any country.

The Convention also provides for the refusal of recognition and enforcement of foreign arbitral awards in the following cases:

1. When the award is not final or has not become enforceable in the country where it was made.
2. When the award is not final or has not become enforceable in the country where enforcement is sought.
3. When the award is not final or has not become enforceable in any country.

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The Convention also provides for the refusal of recognition and enforcement of foreign arbitral awards in the following cases:

1. When the award is not final or has not become enforceable in the country where it was made.
2. When the award is not final or has not become enforceable in the country where enforcement is sought.
3. When the award is not final or has not become enforceable in any country.
2018 | Convention in force in 157 States

Angola: 157th (2017)
Andorra: 156th (2015)
Comoros: 155th (2015)
Guyana: 152nd (2014)
Bhutan: 151st (2014)
Burundi: 150th (2014)
Myanmar: 149th (2013)
São Tomé: 148th (2013)
The pro-enforcement policy of the Convention

Replacement of the 1923 Geneva Protocol and the 1927 Geneva Convention

- **Broadening the scope**
  - “Article I gives the New York Convention a broader scope than the 1927 Geneva Convention. Pursuant to article I(1), the New York Convention applies to awards made in any foreign State, irrespective of whether that State is a Contracting State”. *(Guide, Chapter I, para. 3)*
  - “The Geneva Convention applied only to arbitral awards that were rendered in proceedings ‘between persons who are subject to the jurisdiction of one of the High Contracting Parties’”. *(Guide, Chapter I, para. 4)*

- **Removing barriers**
  - “The New York Convention eliminated the requirement that the applicant provide proof of finality of the award”. *(Guide, Chapter IV, para. 4)*
  - The Convention “allows national courts to adjourn their decision on enforcement should they ‘consider it proper’” *(Guide, Chapter VI, para. 5)*, as opposed to an automatic stay under the Geneva Convention.

- **Introducing a more favorable right provision**
  - “Contracting States will not be in breach of the Convention by enforcing arbitral awards pursuant to provisions of domestic laws or treaties that are more favorable to enforcement”. *(Guide, Chapter VII, para. 2)*
<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tr>
<td>1969-1970</td>
<td>Discussion of a convergence towards a uniform interpretation of existing conventions</td>
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<tr>
<td>1998</td>
<td>Discussion on the interpretation of the New York Convention</td>
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<tr>
<td>2008</td>
<td>Report based on replies sent by 108 Party States to the Convention regarding its implementation, interpretation, application, requirements and procedure</td>
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<tr>
<td>2010</td>
<td>“[...] the project should consist in the development of a guide on the New York Convention, with a view to promoting a uniform interpretation and application of the Convention. It was considered that such a guide could assist with problems of legal uncertainty resulting from its imperfect or partial implementation and could limit the risk that practices of States diverged from the spirit of the Convention”</td>
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In cooperation with

Professor Emmanuel Gaillard

Professor George A. Bermann

Enforcement of Foreign Arbitral Awards (New York, 1958) ("the Convention"). The Commission requested the Secretariat to study the feasibility of preparing a guide on the Convention, with a view to promoting a uniform interpretation and application of the Convention, thus avoiding uncertainty resulting from its imperfect partial implementation and limiting the risk that practices of States diverge from spirit of the Convention. Also, at that session, the Commission agreed that, resources permitting, the activities of the Secretariat in the context of its technical assistance programme could include dissemination of information on the judicial interpretation of the New York Convention, which would usefully complement other activities in support of the Convention. At its forty-fourth and forty-fifth sessions, in 2011 and 2012, the Commission had been informed that the Secretariat was carrying out the project related to the preparation of a guide on the Convention, in close cooperation with G. Bermann (Columbia University School of Law) and E. Gaillard (Sciences Po School of Law), who had established research teams to work on the project. The Commission was informed that a website (www.newyorkconvention1958.org) had been established in order to make the information gathered in preparation of the guide on the New York Convention publicly available.
The Guide in its different languages

UNCITRAL
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW

Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards
(New York, 1958)

CNUDC
COMMISSION DES NATIONS UNIES POUR LE DROIT COMMERCIAL INTERNATIONAL

Guide du secrétariat de la CIIV sur la Convention portant sur la reconnaissance et l'exécution des sentences arbitrales étrangères
(New York, 1958)

Секретариат ЮНСИТРАЛА
Руководство по Конвенции о признании и приведении в исполнение иностранных арбитражных решений
(Нью-Йорк, 1958 год)

CNUDMI
COMISIÓN DE LAS NACIONES UNIDAS PARA EL DERECHO COMERCIAL INTERNACIONAL

Guía relativa a la Convención sobre el Reconocimiento y la Ejecución de las Sentencias Arbitrales Extranjeras
(Nuevo York, 1958)
“The purpose of the Guide is to assist in the dissemination of information on the New York Convention and further promote its adoption as well as its uniform interpretation and effective implementation. In addition, the Guide is meant to help judges, arbitrators, practitioners, academics and Government officials use more efficiently the case law relating to the Convention.”

Research teams initially analyzed case law from 15 common law and civil law jurisdictions:
- Australia, Canada, India, Hong Kong, the United Kingdom of Great Britain and Northern Ireland, the United States of America
- Brazil, China, Colombia, Egypt, France, Germany, Russian Federation, Switzerland, OHADA

Contributors to the Project gathered further case law from 45 countries.

Extensive case law analysis uncovered the key trends in how the Convention is applied in practice: a bottom-up approach.

The Guide includes a Chapter for each article of the Convention.

Each Chapter includes the list of the Preparatory Works in introduction and provides for an analysis of the text of the Convention in the light of case law from a multiplicity of jurisdictions.

This process led to the creation of the newyorkconvention1958.org website.
Case law referenced in the Guide
Conclusion

1. Courts apply the provisions of the Convention in a consistent manner and promote the Convention’s objective to facilitate the recognition and enforcement of arbitral awards.

2. Parties resisting enforcement have been largely unsuccessful at proving grounds for refusal under Article V.

3. The Convention sets a minimum standard and national laws may always be more pro-enforcement.

Article VII(1) reflects that the Convention provides for a “ceiling”, or maximum level of control, over recognition and enforcement.
newyorkconvention1958.org

- **Original language decisions**: 1970+
- **Case summaries**: 800+
- **Translations into English**: 100+
- **References in the bibliography**: 880+
  - 72 countries, 11 languages, 199 references accessible online
- **Countries represented on the website**: 55

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Slovenia

Reservations
Slovenia made a reservation with regards to the retroactive application of the Convention.

Instrument of accession

National Arbitration Act in force

Domestic Court with jurisdiction over recognition and enforcement of foreign award
A foreign award may be recognized by the District Court of Ljubljana (Okrožno Sodišče v Ljubljani) and enforced by the competent District Court (Okrožna Sodišča) where the assets are located.

Author(s) and Contributor(s)
Dr. Ana Jerab (LL.M. (MiDS), the Supreme Court of the Republic of Slovenia)

Useful links
Slovenian legislation database: www.pisrs.si
Slovene case-law database: www.sodnapraksa.si (Public information of Slovenia, the Supreme Court of the Republic of Slovenia)
Slovene Supreme Court: www.sodisce.si
Slovene Constitutional Court: www.us.rs.si
Jedro

Določba tretjega odstavka 247. člena OZ je nedvomno kognitna, ri pa (ker ne tehnično ne vsebinsko ne sozi med temeljne določbe zakona) vkljuna v mednarodni javni red. Neoposredno nasprotovanje določbi tretjega odstavka 247. člena OZ (op. izstudi ima v slovenskem pravnem prostoru za posloško ničnost), ne predstavlja imperativne pravne norme oziroma moralne pravila, zasadi katerega bi bila ogrožena pravna ali moralna integriteta slovenske pravne ureditve.

Med strankama gre namreč za pravno razmerje z tujim elementom, pri čemer sta stranki soglasno dogovorili uporabo tujega prava, kar v njuno pravno razmerje vneša posledice tujih pravnih sistemov, ki niso nujno (povsem) skladne s slovenško pravno ureditvijo.

Izrek

I. Prinotna nasprotne udeleženke se zavrne in se sklep sodišče prve stopnje potrdi.

II. Nasprotna udeleženka mora v 15 dneh od vročitve tega sklepa predlagateljico povrniti pritožbene stroške v znesku 112,00 EUR z zakonskimi zamadtnimi obrestmi, ki tečejo od prvega naslednjega dne po izteku roka za izpolnitev obveznosti, določenega s tej točki izreka, do plačila.

Obrazložitev
