

A. Enforcement of foreign court judgments.

1. Under what circumstances court judgments will not be enforced in your country.

In accordance with Arbitration Procedure Code of the Russian Federation the arbitration court shall refuse to recognize or execute a decision of a foreign court, fully or in part, if:

- 1) the decision has not entered into force in conformity with the law of the country where it is adopted;
- 2) the party against which the decision is adopted has not been timely and properly notified about the time and place of the case consideration, or had no chance to provide its explanations to the court because of the other reasons;
- 3) according to an international treaty of the Russian Federation or a federal law, the investigation of the case is referred to the exclusive competence of the court in the Russian Federation;
- 4) there is an enforced decision in the court in the Russian Federation on a dispute between the same persons on the same object and on the same grounds;
- 5) there is a case on a dispute between the same persons, on the same object and on the same grounds under consideration of a court in the Russian Federation, and the legal proceedings were initiated before the proceedings in the foreign court; if the court in the Russian Federation was the first to accept for proceedings an application on the dispute between the same persons, on the same object and on the same grounds;
- 6) the term of limitation for the execution of the decision of the foreign court for a forcible execution has expired, and this term was not restored by the arbitration court;
- 7) the execution of the decision of the foreign court would contradict the public policy in the Russian Federation.

Sometimes the political situation with another country may influence on recognition and enforcement of foreign court judgment or the denial of such recognition by the Russian courts according to the reciprocity. If the practice of another country is mostly to refuse in such enforcement of Russian court judgments on its territory the enforcement of foreign court judgments could be pretty difficult for parties from such country in Russia. *As practice shows such situation exists with Ukraine.*

B. The enforcement of foreign arbitral awards.

- The arbitral award and the arbitration proceeding (Arbitration courts of the Russian Federation) are completely different concepts in Russia.
- Arbitration tribunal (Commercial Arbitration) is a non-state judicial body that resolves disputes on economic contracts of legal entities among themselves, legal entities and citizens, citizens among themselves.
- The system of arbitration courts is an institution of self-regulation of civil society that carries out law enforcement activities (resolution of civil disputes) on the basis of the mutual will of the parties (the arbitration agreement).

- Arbitration courts of the Russian Federation are Federal courts and enter into judicial system of the Russian Federation.

1. The Russian Federation recognize foreign court judgments as binding and enforces them in accordance with the provisions of the procedural legislation under the terms and conditions of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards signed at New York, June 10, 1958.

What was changed with respect to arbitrability?

2016 in Russia was a year of a large-scale modernization of the legislation on arbitration.

On the 1st of September, 2016 a new Federal law "On arbitration (arbitration proceedings) in the Russian Federation" and also amendments to the Federal law "On international commercial arbitration" came into the force and turned out the reform of the Institute of arbitral awards into practice. *The question of drafting, approval and inclusion of arbitration clause in the contracts was one of the main aspects.*

The sections of the Civil procedure code, the Arbitration procedural code on regulating procedure of control over the judgments of domestic and international arbitral awards were fully updated.

In connection with the reform of arbitration were made lots of legislative changes in Federal laws.

Court information system of the Russian Federation became available for everybody online. Since January the 1st 2017 the submission of electronic documents to the court was legislatively established.

Do Russian courts enforce foreign arbitral awards?

Enforcement of foreign court judgments and foreign arbitral awards, statistics of the enforcement in Russian Federation for 2015 and 2016 is presented in the Table 1 and Table 2. We do not have statistics for other countries to compare is it high level of the enforcement or very low. But anyway Russian courts enforce foreign arbitral awards to any extent.

Do we have to expect different experiences in Moscow, St. Petersburg, and Siberia (for example)?

Some differences of course may arise. First of all because of the level of business activity of the city or region, the number of cases considered, the densely populated region, there may be differences in the positions of one or another court, in particular the provision on the concept of public policy. But we do not have any information concerning legal trends of enforcement or non-enforcement of foreign arbitral awards depending on the city or region as we think because of the lack of such trends.

Is the public policy now more narrowly interpreted and is the interpretation the same in all regions? Is the well-being of regions or cities still a problem which may be used as a public policy criteria?

Strong disagreements could be in interpretation of public policy criteria depending on region and well-being of the city, again, because of the level of business activity, the number of cases considered, loan obligations of the region, positions of one or another court or judge, level of life, level of income etc.

This question is the subject of a considerable number of scientific discussions and has been reflected in the small and rather inconsistent practice of arbitration courts. In what situations is it allowed to apply the norms which establish the powers of the court, in fact, to ignore the decision taken by another foreign court? What are the characteristics of a judicial or arbitral award that contradicts the public policy of the Russian Federation?

Is the concept of "public policy" exclusively legal or includes also any moral or economic components?

The solution of the above-mentioned and many other issues related to the application of the rules relating to public policy matters is essential for the formation of a uniform law enforcement practice in the field of recognition and enforcement of foreign decisions since a contradiction to public policy can be a very powerful instrument of blocking any foreign decision despite reciprocity, contractual relations, international and domestic regulatory requirements to consider with judicial and arbitration decisions taken in the territory of other countries.

Taking into account all the potential strength of this instrument, courts for the most part use this tool very carefully and refuse to recognize and enforce a foreign decision on grounds of its contradiction to public policy rather seldom. Such practice is not negative since the reverse situation would lead to a significant number of abuses on the part of persons wishing to escape the decision not made in their favor.

But from the other hand it's not correct to refuse using the opportunity provided by law and international instruments to prevent the execution of a decision that is contradictory to the foundations of the national system or public policy, due to the lack of a confident understanding of the situations in which such an opportunity should be used.

The results of the analysis of court-arbitration practice shows that there is a tendency rather to the following situation in Russia: it is easier for courts to render a decision on the lack of proof of the contradiction of a foreign judgment to public policy than to create a precedent. In other words, courts do not have a notion of what they should understand under public policy and therefore they are in search, offering different versions of their own interpretation of the concept.