JPB REVIEW
INTERNATIONAL JOURNAL OF PROFESSIONAL BUSINESS REVIEW
ISSN: 2525-3654
OPEN ACCESS

RECOGNITION AND ENFORCEMENT OF ANNULLED ARBITRAL AWARDS UNDER THE NEW YORK CONVENTION 1958

Mohammed Zaheeruddin[A]

ARTICLE INFO

Article history:

Received 07 April 2023

Accepted 04 July 2023

Keywords:

Arbitral Award;
Annulled;
Recourse;
Set Aside;
New York Convention;
Recognition;
Enforcement.

ABSTRACT

Purpose: The arbitral awards are enforceable internationally under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958. The Convention provides the discretion to the courts in enforcing State either to enforce or reject the international arbitral awards. The award set aside at the seat of arbitration is not enforceable, however the courts in some jurisdictions enforced such awards. In this context the paper examines how the courts in different jurisdictions justified while enforcing the annulled awards.

Theoretical framework: Arbitration mechanism is frequently used for settlement of international commercial disputes. It enables party autonomy in drafting arbitration agreements, choosing the applicable law and determining the arbitration seat. According to Article V (1)(e) of the New York Convention the national courts may refuse to recognize or enforce the foreign award if it was set aside or annulled at the seat of arbitration or under law of which such award was given. In some jurisdictions the enforcing courts considered the annulment procedure followed by the courts and if such procedure was unfair, the courts in enforcing country have agreed to enforce the set aside awards.

Design/methodology/approach: The author followed the legal analysis method to examine the approach of the courts from different jurisdictions that have enforced the annulled foreign arbitral awards and the legal comparative method observed to study the judicial decisions from various jurisdictions.

Findings: The study concludes that Article V (1) of the New York Convention gives discretionary power to the enforcing courts regarding enforcement of foreign arbitral award. Hence, the courts in some jurisdictions enforced the annulled award if the set aside procedure was unfair, based on local grounds, biased, violated basic norms of justice, against the parties' agreement or applied domestic law instead of the New York Convention. To secure the enforcement of award, the parties to the arbitration may agree that the arbitral award is not subject to challenge in any court at the arbitration seat or in the state in which the award is enforced and prefer a pro-arbitration State as a seat of arbitration.

Research, Practical & Social implications: The study provides practical guidance to the arbitrating parties in drafting arbitration agreements to ensure the enforcement of an arbitration award internationally.

Originality/value: The research on enforcement of annulled award under the New York Convention immensely helpful in guiding the arbitration parties in drafting the arbitration agreement, choosing arbitration procedure and seat of arbitration.

Doi: https://doi.org/10.26668/businessreview/2023.v8i7.2637

[A] *Doctor. Professor of Law. College of Law, United Arab Emirates University (UAEU). Al Ain, United Arab Emirates. E-mail: Z_Mohammed@uaeu.ac.ae Orcid: https://orcid.org/0000-0001-6450-1136*

RECONHECIMENTO E EXECUÇÃO DE SENTENÇAS ARBITRAIS ANULADAS NOS TERMOS DA CONVENÇÃO DE NOVA YORK DE 1958

RESUMO

Objetivo: As sentenças arbitrais são executáveis internacionalmente de acordo com a Convenção sobre o Reconhecimento e Execução de Sentenças Arbitrais Estrangeiras de 1958. A Convenção permite que os tribunais do Estado de execução executem ou rejeitem as sentenças arbitrais internacionais. A sentença anulada na sede da arbitragem não é executável, mas os tribunais de algumas jurisdições executaram tais sentenças. Nesse contexto, o artigo examina como os tribunais de diferentes jurisdições justificaram a execução das sentenças anuladas.

Estrutura teórica: O mecanismo de arbitragem é frequentemente usado para a resolução de disputas comerciais internacionais. Ele permite a autonomia das partes na elaboração de acordos de arbitragem, na escolha da lei aplicável e na determinação da sede da arbitragem. De acordo com o Artigo V (1) (e) da Convenção de Nova York, os tribunais nacionais podem se recusar a reconhecer ou executar a sentença estrangeira se ela tiver sido anulada ou rejeitada na sede da arbitragem ou sob a lei da qual a sentença foi proferida. Em algumas jurisdições, os tribunais de execução consideraram o procedimento de anulação seguido pelos tribunais e, se esse procedimento for injusto, os tribunais do país de execução concordaram em executar as sentenças anuladas.

Projeto/metodologia/abordagem: O autor seguiu o método de análise jurídica para examinar a abordagem dos tribunais de diferentes jurisdições que executaram as sentenças arbitrais estrangeiras anuladas e o método comparativo jurídico observado para estudar as decisões judiciais de várias jurisdições.

Conclusões: O estudo conclui que o Artigo V (1) da Convenção de Nova York dá poder discricionário aos tribunais de execução com relação à execução de sentença arbitral estrangeira. Portanto, os tribunais de algumas jurisdições executaram a sentença anulada se o procedimento de anulação foi injusto, baseado em motivos locais, tendencioso, violou normas básicas de justiça, contra o acordo das partes ou aplicou a lei nacional em vez da Convenção de Nova York. Para garantir a execução da sentença, as partes da arbitragem podem concordar que a sentença arbitral não está sujeita a contestação em nenhum tribunal da sede da arbitragem ou do Estado em que a sentença é executada e preferir um Estado pró-arbitragem como sede da arbitragem.

Implicações sociais, práticas e de pesquisa: O estudo fornece orientação prática para as partes arbitrais na elaboração de convenções de arbitragem para garantir a execução de uma sentença arbitral internacionalmente.

Originalidade/valor: A pesquisa sobre a execução de sentença anulada nos termos da Convenção de Nova York é extremamente útil para orientar as partes arbitrais na elaboração da convenção de arbitragem, na escolha do procedimento de arbitragem e da sede da arbitragem.

Palavras-chave: Sentença Arbitral, Anulada, Recurso, Anulação, Convenção de Nova Iorque, Reconhecimento e Execução.

RECONOCIMIENTO Y EJECUCIÓN DE LAUDOS ARBITRALES ANULADOS EN VIRTUD DE LA CONVENCIÓN DE NUEVA YORK DE 1958

RESUMEN

Objeto: Los laudos arbitrales son internacionalmente ejecutables en virtud de la Convención de 1958 sobre el reconocimiento y la ejecución de las sentencias arbitrales extranjeras. El Convenio permite a los tribunales del Estado de ejecución ejecutar o anular los laudos arbitrales internacionales. Un laudo anulado en la sede del arbitraje no es ejecutable, pero los tribunales de algunas jurisdicciones han ejecutado dichos laudos. En este contexto, el artículo examina cómo los tribunales de diferentes jurisdicciones han justificado la ejecución de laudos anulados.

Marco teórico: El mecanismo de arbitraje se utiliza a menudo para la resolución de disputas comerciales internacionales. Permite la autonomía de las partes a la hora de redactar los acuerdos de arbitraje, elegir la ley aplicable y determinar la sede del arbitraje. Según el artículo V(1)(e) de la Convención de Nueva York, los tribunales nacionales pueden negarse a reconocer o ejecutar el laudo extranjero si éste ha sido anulado o rechazado en la sede del arbitraje o en virtud de la ley en la que se dictó el laudo. En algunas jurisdicciones, los tribunales ejecutores han considerado el procedimiento de anulación seguido por los tribunales y, si dicho procedimiento es injusto, los tribunales del país ejecutor han aceptado ejecutar los laudos anulados.

Diseño/metodología/enfoque: El autor siguió el método de análisis jurídico para examinar el enfoque de los tribunales de diferentes jurisdicciones que ejecutaron los laudos arbitrales extranjeros anulados y el método jurídico comparativo observado para estudiar las decisiones judiciales de diversas jurisdicciones.

Resultados: El estudio concluye que el artículo V(1) de la Convención de Nueva York otorga poder discrecional a los tribunales de ejecución con respecto a la ejecución de laudos arbitrales extranjeros. Por lo tanto, los tribunales de algunas jurisdicciones han ejecutado el laudo anulado si el procedimiento de anulación era injusto, se basaba en motivos locales, era parcial, violaba normas básicas de justicia, iba en contra del acuerdo de las partes o aplicaba la legislación nacional en lugar de la Convención de Nueva York. Para garantizar la ejecución del laudo, las partes

en el arbitraje pueden acordar que el laudo arbitral no sea impugnable ante ningún tribunal de la sede del arbitraje o del Estado en el que se ejecuta el laudo y preferir como sede del arbitraje un Estado favorable al arbitraje.
Implicaciones sociales, prácticas y de investigación: El estudio proporciona orientación práctica a las partes arbitrales en la redacción de acuerdos de arbitraje para garantizar la ejecución de un laudo arbitral a nivel internacional.
Originalidad/valor: La investigación sobre la ejecución de un laudo anulado en virtud de la Convención de Nueva York es de gran utilidad para orientar a las partes arbitrales en la redacción del convenio arbitral, la elección del procedimiento arbitral y la sede del arbitraje.

Palabras clave: Laudo Arbitral, Anulado, Recurso, Anulación, Convención de Nueva York, Reconocimiento y Ejecución.

INTRODUCTION

Economic growth is necessary for the sustainable per capita income growth in any country (Hisar Sirait, et al 2023). The foreign direct investment causes economic growth in various countries (Mashhour H. Maharmah, 2023), which means entering of contracts and arbitration agreements between the parties. When trade grows, strategic foresight is required to predict events before they occur and prepare itself to deal with those events (Ahmed et al 2022). To settle disputes arbitration is preferred mode over the national courts, particularly for international commercial disputes, because arbitration allows parties to exercise their autonomy in respect of choosing choice of law, seat of arbitration, arbitration rules and to tailor dispute resolution proceedings that meet their specific needs (Felix Weinacht, 2002). Additionally, the arbitral award is enforceable internationally under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (hereinafter referred as the New York Convention).

A valid arbitration agreement between the parties and submission of the dispute to the arbitration leads the arbitral tribunal to render an award according to the applicable law and arbitration rules. If there is no contrary agreement, such an award can be challenged at the arbitration seat or under the law of which the award was rendered. The national courts at the seat of arbitration and enforcement with a supervisory jurisdiction, monitors the arbitral process' conformity with the rule of law (Sae Youn Kim & Marieke Minkkinen, 2017) may set aside the award in line with the grounds stated in article 34 of the UNCITRAL Model Law.

The general rule is that an annulled award is not enforceable domestically and internationally. The annulment of an award has an extra-territorial effect, it prevents the enforcement in other contracting States by reason of Article V (1) (e) of the New York Convention (Yearbook, 1989). However, in certain jurisdictions the national courts have been enforced the set aside award on grounds such as; the refusal to enforce violates public policy

(*Chromalloy Aeroservices v. République arabe d'Egypte*, 1996), if the annulling judgment was the result of unfair trail (*Maximov v. NLMK France*, 1997) and the annulment violates fundamental principles of what the State considers to be right and reasonable (*Getma International v. Republic of Guinea*, 2017).

According to the New York Convention (Article V (1)(e)) the national courts may refuse the recognition or enforcement of an award on the grounds that if the party opposing enforcement proves that (1) the award has not yet become binding on the parties or (2) has been set aside or suspended by a competent authority of the country in which, or under the law of which the award was made.

Article V (1)(e) of the New York Convention gives the discretion to the contracting State whether to recognition and enforce the foreign award. In general, if arbitral award was set aside or vacated at the seat of arbitration, it may not be enforced in foreign countries. The courts in some jurisdictions enforced the annulled awards even though annulled at the seat of arbitration. Hence there is a justification in research to examine the grounds on which courts enforced the annulled awards and justified the recognition and enforcement decision.

RESEARCH OBJECTIVES

Article V (1)(e) of the New York Convention with a discretion, permits the enforcing State to decide the enforceability of the award that has been set aside or suspended by a competent court in the country in which, or under law of which, that award was made. Since the New York Convention grants flexibility in terms of recognition and enforcement of the awards, the courts in different jurisdictions are facing the issue of whether to execute the annulled award under the New York Convention. In this context the paper is intended to examine the grounds on which the courts in different jurisdictions either rejected or enforced the annulled awards.

METHODOLOGY

To study the interpretation of the New York Convention in different jurisdictions regarding enforcement of the annulled awards the paper followed an analytical approach to evaluate the existing legal framework and decided case law. The author also used the legal comparative method to examine the approach of the courts from different jurisdictions that have enforced foreign arbitral awards even though annulled at the place of its origin.

RESULTS & DISCUSSION

The New York Convention is a most accomplished treaty with 172 States as parties (UNCITRAL), which was established to assist the international recognition and enforcement of arbitral awards. The Convention bestows that each Contracting State shall accept foreign arbitral awards as binding and enforce them in accordance with the statutes and procedure of the law of the State. According to Article III of the New York Convention, the contracting State, without imposing more onerous conditions, shall apply a similar law to the foreign tribunal award, which applies to the domestic arbitral awards. The New York Convention removed the requirement of double exequatur which contained in the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 (Article 4 (2)). Under the New York Convention the party trying to enforce the award is not required to establish that the award is enforceable as per the law of the country in which, or under the law of which, the award was rendered (*AB Götaverken v. General National Maritime Transport Company,* 1979). An award shall be considered as binding if it is no longer accessible to normal means of recourse (*Company X SA v. State Y,* 2008) at the law of the country where the arbitration took place (*Denysiana S.A. v. Jassica S.A,* 1984) and such award shall be enforceable internationally.

Prerequisites of New York Convention for Recognition & Enforcement of Foreign Awards

A party requesting for recognition and enforcement of arbitral award in terms of the New York Convention is required to provide following documents: (a) original or certified copy of the award; (b) the arbitration agreement between the parties (original or certified); (c) if the award is not in official language of the country in which recognition and enforcement, a translation of award into such language (Article IV).

Upon the submission of the required documents the court in a contracting state is required to recognize the tribunal award as binding and enforce them in line with its regulations and procedures (Article III). The court in enforcing State may adopt any one of the following approaches in interpreting the New York Convention: (i) as a primary jurisdiction (annulment of awards rendered in its jurisdiction); or (ii) as a secondary jurisdiction (recognition/enforcement actions). The enforcing court may refuse to recognize the award when it was set aside in primary jurisdiction, based on traditional principles of comity (Sae Youn Kim et al., 2017) or it may apply its own national rules and implement the annulled award, for instance the French Supreme Court observed that cancellation of an award at the place of

arbitration is irrelevant for the enforcement in France (*Société Hilmarton v. Omnium de Traitement et de Valorisation, 1994).*

Refusal of Recognition and Enforcement

According to Article V of the NYC a national court could reject to recognize and enforce the foreign tribunal award, if the opposite party submits a proof of any of the following grounds: (1)(a) incapacity of a party or existence of invalid arbitration agreement; or (b) not received proper notice of appointment of arbitrators or arbitration process or not able to submit his case; or (c) the award's scope goes beyond the terms of submissions made by the parties; (d) composition of the tribunal or the procedure fallowed was not in accordance with agreement of the parties or applicable law; (e) the competent court has not yet made the decision final or award set aside or suspended by the court; or (2)(a) the subject matter of dispute is not arbitrable; or (b) the recognition and enforcement is against public policy of the State. Similarly, the domestic law of the State may also define the grounds on which their courts may reject to recognize and enforce the non-national arbitral awards, for example Article 48 of the Indian Arbitration and Conciliation Act, 1996; Section 103 of the Arbitration Act, 1996 (England) and Articles 54 & 58 of the Law Concerning Arbitration in Civil and Commercial Matters, 1994 in Egypt.

Article V (1) (e) of the New York Convention authorizes the national courts to refuse to recognize and enforce the award if the award has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made. Further, Article VI of the New York Convention allows a court where enforcement is sought to defer a decision to enforcement, if the award is being contested in the country where it was made (*Spier v. Calzaturificio Tecnica S.p.A.*, 1987). Accordingly, a court may adjourn its decision on enforcement if the respondent has applied for a setting aside of the award in the country of origin (Article VI).

Recognition and enforcement of the annulled awards

Whether an award set aside at the place of arbitration is enforceable in another contracting State of the New York Convention is a question open for debate. The customary perspective is that an award annulled at the venue of arbitration has ceased to exist and cannot be enforced in another contracting State. However, over a period some courts have begun to consider that the annulment of an award at the seat is not necessarily preclusive of the possibility

of enforcement in other states (Luca G. Radicati di Brozolo, 2014). The decisions rendered by the courts in France (*Société Hilmarton v. OTV, 1994)*, United States (*Corporacion Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. PEMEX-Exploracion y Produccion,* 2016), Netherlands (*OAO Rosneft v. Yukos capital SARL, 2014)* and the United Kingdom (*Dowans Holdings SA & others v. Tanzania Electric Supply Ltd.,* 2011) confirm that the courts in enforcing State may enforce the annulled awards according to its own national rules and public policy of the State.

In some countries, there are more favorable conditions under the domestic law than the New York Convention for the enforcement of foreign arbitral awards. For example, in France the appeal against the recognition and enforcement of award is allowed only on the grounds that, there is no valid arbitration agreement, irregularities in constitution of the tribunal; arbitrator exceeded the authority; due process is not followed, and the recognition and implementation is against the public policy (Article 1502 of the France Code of Civil Procedure).

The approach of courts about recognition and enforcement of foreign tribunal awards differs from one jurisdiction to another jurisdiction. In some jurisdictions there is a practice of courts to consider the validity of annulment procedure followed by the court, if the procedure was unfair, the courts may agree to enforce the annulled award. For rejecting the recognition and enforcement of foreign tribunal's awards it must be vacated or suspended by competent authority in the country rendered the award. A mere initiation of set aside process is not a sufficient reason to deny a request for enforcement of an award under the New York Convention (*Company X S.A. v. State Y*, 2008).

The decisions delivered by the domestic courts in France, Belgium, and Austria, give the understanding that an award annulled or vacated at the arbitral seat may, in some situations be enforced (Gary B. Born, 2018). The courts in Netherlands or the United Kingdom are disinclined to enforce set aside or vacated arbitral awards in any circumstance (Clifford J. Hendel & María Antonia Pérez Nogales, 2019). The reasons stated by the courts from different jurisdictions for the pro and against the recognition and enforcement of the annulled awards have been discussed in the following paragraphs.

Refused to enforce the set aside or vacated awards

The courts in the United States refused to entertain the set aside award on various grounds such as there are no extraordinary circumstances exist (*Spier v. Calzaturificio Tecnica,*

S.p.A, 1987), set aside award does not exist for enforcement (*TermoRio v. Electranta*, 2017) and annulment was not repugnant to fundamental notions of morality and justice in the United States (*Getma International v. Republic of Guinea*, 2017).

In *Baker Marine (Nig.) Ltd. v. Chevron (Nig.) Ltd.* (1999), Baker Marine, Chevron and Danos, three companies referred the dispute to arbitration in Nigeria. The awards were in favor of Baker, at enforcement stage the Nigerian court set aside the awards. Baker submitted a confirmation request in the US District Court for the Northern District of New York. The court refused to recognize the set aside award stating that it is improper to enforce the annulled award. On appeal, Second Circuit court affirmed the district court decision, stating that Baker failed to show adequate reasons that compel the court to recognize the annulled award and cautioned against the tendency of forum shopping by the loosing parties.

In *Spier* v. *Calzaturificio Tecnica, S.p.A., (1999)* the District Court (New York) affirmed the U.S. court decision in Baker Marine case (US 2nd Cir. court 1999) and held that unless there are extraordinary circumstances, United States courts should not enforce the foreign nullified awards. Similarly, in *TermoRio v. Electranta (2007)*, the District Court of Columbia Circuit refused to enforce the award nullified by a competent court in Colombia on the grounds of procedural irregularity and held that if an arbitration award has been legally "set aside" by a competent authority, it no longer exists to be enforced in other contracting State. The court also observed that any attempt to enforce the annulled awards would undermine the principles of the New York Convention.

In *Getma International v. Republic of Guinea* (2017), Getma (French company) commenced arbitration proceedings against Guinea and the arbitrators issued the decision in favor of Getma. Guinea filed a petition before the Common Court of Justice and Arbitration (CCJA) for the annulment of the award and the CCJA nullified the award on the ground that arbitrators violated the arbitration fee rules. Meanwhile, Getma tried to enforce the award in the District of Columbia (USA), the district court refused to enforce the award on the ground stated in Article V (1)(e) of the New York Convention. On appeal, the Court of Appeals upheld the decision of the District Court and declined to enforce the award that had been annulled at the seat of the arbitration. The court affirming the legal test it enunciated in *TermoRio S.A. E.S.P. v. Electranta SP* (2007) and held that it would enforce an annulled award only if such action was against fundamental notions of morality and justice in the United States. Similarly, in *Thai-Lao Lignite (Thailand) Co., Ltd. v. Government of the Lao People's Democratic*

Republic (2017), the US Court refused to enforce the tribunal award that was overturned in Malaysian court.

The courts in United Kingdom, France, the Netherlands, Brazil, Singapore, Germany, and Luxemburg refused to enforce the annulled awards in following cases.

In *IPCO Limited v. Nigerian National Petroleum Corporation (NNPC)(*2015), the IPCO submitted the dispute to arbitration in Nigeria and the tribunal awarded damages in favor of IPCO. The award was challenged in Nigerian court by NNPC, meanwhile IPCO tried to enforce the tribunal's decision in England and Wales. In the High Court of England and Wales, Queen's Bench Division, it was prima facie established that IPCO has obtained the award by fraud means. Hence, the court denied the enforcement of the award as it undermines the validity of the whole award, consequently, IPCO's appeal failed.

In *Claude Clair v. Louis Berandi* (2017), the Court of Appeal of Paris refused to enforce the ICC award made in Geneva stating that the award was set aside on the ground of arbitrariness by the Court of Appeal of the Canton Geneva under the Swiss Arbitration Concordat of 1969.

The Netherland court refused to recognize the annulled award when it has been set aside by the competent authority (Yearbook Comm. Arb. XLI, 529, 2017). In *SEEE v. Socialist Republic of Yugoslavia (1976)*, the Netherland Supreme Court rejected to enforce the tribunal decision which was declared by the Swiss court that it was not an award within the meaning of its procedural law. Similarly, the Luxembourg court refused to enforce the set aside award held that the award annulled at the place of arbitration could not have legal effects in Luxembourg (*Judgment of* Luxembourg *Cour d'Appel 18 December 2013).*

The Brazilian Superior Court of Justice (SJI) in *EDF International S.A v. Endessa Latinoamerica SA & YPF SA* (2015), refused to enforce the award that has been annulled in Argentina. Similarly, the Singapore Court Appeal *in PT First Media v. Astro Nusantara International BV (2015)*, held that an award vacated at the place of arbitration ceased to exist for enforcement. In Germany, Rostock Higher State Court (OLG) held that an award set aside in Russia is not enforceable (Sae Youn Kim et al., 2017).

In India under the Indian Arbitration and Conciliation Act, 1996 the enforcement of foreign tribunal awards is regulated by the rules based on the New York Convention (Articles 44 -52). The Supreme Court of India in *Renusagar Power Co. Ltd v. General Electric Company (1994)* held that it will restrict itself to refuse the enforcement of foreign awards on the reasons

stated in Article 48 of the Indian Arbitration and Conciliation Act, 1996, like grounds mentioned in Article V of the New York Convention.

According to the above case law from different jurisdictions, the national courts refused to enforce awards that have been lawfully set aside or annulled by the competent authority.

Recognized and enforced the annulled awards

The courts in United States, United Kingdom, and France, which are refused to recognize and enforce the annulled awards interpreted the New York Convention differently in some cases and enforced the foreign arbitral awards, already annulled by the court of the place of arbitration (Clifford J. Hendel et al., 2019)

In the United States there is a strong presumption in favor of recognition and enforcement of international arbitral awards, basing on the New York Convention and the Federal Arbitration Act 1925. The Federal Arbitration Act (FAA) provides that the courts may refuse to enforce the awards only in cases of fraud, corruption, bias, procedural misconduct, or exceeding the arbitrators' powers in any way, including "manifest disregard" of the law (Section 10). United States courts enforced annulled awards if extraordinary circumstances existed or if the annulment violated United States morality, justice and fundamental beliefs.

In *Corporacion Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. PEMEX-Exploracion y Produccion* (2016), the US Court of Appeals, under the Panama Convention 1975, enforced an ICC award annulled in Mexico, against an entity of the Mexican State PEMEX-PEP. The court, while enforcing the award reasoned that foreign court judgments are conclusive, unless they are repugnant to public policy of the enforcing State, accordingly, held that in the present case enforcement is decent and just.

In *Karaha Bodas Co. LLC., v. PP Minyak Dan Gas Bumi Negara* (U.S. Court of Appeals 2007), the arbitral award was made in Geneva, the annulment request for this award was denied by the Swiss Federal Tribunal, then annulment petition was submitted in the court in Jakarta (Indonesia), and the court set aside the arbitral award. The US Court recognizing the award held that the award was not set aside by the competent court, and in the present case Swiss court was the appropriate court to rule on the set aside of the award.

In United Kingdom the courts interpreted the Convention in a rigid way and followed the test that whether set aside decision offends basic principles of honesty, natural justice, and English public policy (Jean Alain & Ndudi, 2018). The English court enforced the award while the application to set aside was unresolved in the courts of its home jurisdiction. In *Dowans*

Holdings SA & others v. Tanzania Electric Supply Limited (2011), the dispute between TESC and Dowans (Claimant) referred to ICC arbitration in Tanzania and the tribunal orders TESC to pay costs and interest to the Claimant. Dowans approached for the enforcement of award in England and Wales Court; meanwhile TESC filed a petition in Tanzanian court to set aside the ICC award. The High Court of Justice, Queen's Bench Division held that although the award was not yet enforceable at the seat of arbitration (Tanzania), that once an award become binding after ordinary recourse, it did not cease to be so as a result of an application to set aside the award in the home jurisdiction under the extraordinary recourse, hence, the award in the present case was indeed binding and enforceable (Sec. 103(2)(f) of the English Arbitration Act, 1996).

The courts in France invoked its Civil Procedure Code which contains favorable conditions than the New York Convention for recognition and enforcement of international awards (Decree No. 2011-48 of 13 January 2011). There is no provision in the French Code for refusal of the recognition and enforcement of annulled awards at the seat of arbitration (Jean Alain et al., 2018). In France refusal of recognition and enforcement is allowed only if there is no valid arbitration agreement, irregularities in constitution of the tribunal; arbitrator exceeded the authority; due process is not followed, and the recognition and enforcement is contrary to public policy (Art. 1502 of the France Code of Civil Procedure). Accordingly, an award made in abroad is liable to be recognized or enforced in France if it is not against the international public policy (Article 1514).

In *Pabalk Ticaret Ltd. Sirketi (Turkey) v. Norsolor SA (France)(Cour de Cassation*, 9 October 1984, & *Cour d'Appel*, Paris, 19 November 1982), Norsolor tried to set aside the arbitral award rendered by ICC in Vienna, the Commercial Court of First Instance of Vienna dismissed the action to set aside the award. Meanwhile, Pabalk approached the President of the *Tribunal de grande instance of the Paris for the enforcement of award and the President* granted leave for enforcement. The same was upheld by the Court of First Instance of Paris. Norsolor appealed to the Court of Appeal of Paris, the court adjourned the decision of enforcement of award until the disposal of set aside appeal in Vienna. The Court of Appeal of Vienna on 29 January 1982 partially vacated the arbitral award. The Paris Court of Appeal held that the award was partially annulled by the Vienna Court of Appeal that led to refusal of recognition and enforcement under Article V (1)(e) of the New York Convention (19 November 1982). Pabalk appealed the decision and argued that the Court of Appeal of Paris violated the French Code of Civil Procedure (Article 12) and Article VII of the New York Convention. The Supreme Court of France overturned the decision of the Court of Appeal of Paris (dated 19

November 1982) and held that according to Article VII of Convention and Article 12 of French New Code of Civil Procedure the interested party should not be denied of any right it may have under the law where such award is sought to be enforced and the court cannot refuse the enforcement when their own legal system permits the enforcement of such award (9 October 1984).

In *Société Hilmarton v. Omnium de Traitement et de Valorisation (OTV) (1994),* the Supreme Court of France clarified that set aside of an award at the place of arbitration is irrelevant for the enforcement of such award in France. In this case the ICC Arbitral tribunal denied the claim of Hilmarton against OTV. At the request of OTV the Paris First Instance Court recognized the award. Meanwhile the award was annulled by the Swiss Courts, consequently, Hilmarton appealed to the Paris Court of Appeal opposing the recognition decision of First Instance Court of Paris. The Paris Court of Appeal relied on the rule set forth in Norsolor case (19 November 1982), wherein the *Cour de Cassation* (9 October1984) recognized the set aside award invoking Article VII of the New York Convention and Article 1502 of the French Code of Civil Procedure. The Supreme Court of France confirmed the judgement of the Court of Appeal and noted that the award rendered in Switzerland is an international award, even it was set aside it remains existence if its recognition in France is not against the international public policy.

In *Putrabali Adyamulia v. Société Rena Holding et Société Moguntia Est Epices* (2007), the Supreme Court of France enforced the set aside award and held that the French Code of Civil Procedure (Article 1502) do not list the setting aside of an award in the country of origin as a ground for refusing the recognition and enforcement of that award. The court also held that international arbitral awards are not subjected to any national legal system and enforcement is not against international public policy, the court applied the rules of the country where recognition and enforcement is sought.

In *Veteran Petroleum Limited (Cyprus) v. The Russian Federation* (2017), the French *Tribunal de Grande Instance d'Evry*, dismissed the Russia's argument that the award must not be recognized and enforced in France after its set aside in the State where the award was delivered. The court also held that award has been annulled in a foreign jurisdiction is not a valid reason to dismiss the claim of enforcement of an award, unless it is a reason enumerated in the Civil Procedure Code of France (Jean Alain et al., 2018).

The courts in United States, United Kingdom and France in above cases enforced the annulled award by invoking the most favorable arbitration rules under the domestic law and Article VII of the New York Convention.

As the New York Convention under Article V (1) provides the discretion to the enforcing courts in respect of recognition and enforcement of the foreign arbitral awards the disputing parties tried to enforce the same annulled award in different jurisdiction, which is known as forum shopping in arbitration.

Forum Shopping with Set Aside Award

The New York Convention unlock the possibility to a party to approach the courts in any contracting State for the enforcement of award that was set aside at the seat of arbitration with an argument that the annulment decision must not be given recognition by the court at the place where the enforcement is sought (Christopher Koch, 2009).

Same case before the courts in USA and France

The same award annulled in Egypt happens to bring before the courts in United States and France and the courts in both the countries have enforced the annulled award. In *Chromalloy Aeroservices v. République arabe d'Egypte* (1996), the court in District of Columbia confirmed the award that had been overturned by a court of Appeal in Egypt. According to the facts, the Arab Republic of Egypt (Egypt) signed a four-year helicopter repair and maintenance service with Chromalloy Aeroservices (CAS). The contract contains arbitration provision, Egypt laws as choice of law and Cairo as seat of arbitration. The Egypt terminated the contract, rejecting termination CAS initiated arbitration proceedings in Cairo. The arbitrators held that termination of contract by Egypt was improper, therefore, liable to pay US$ 16.2 million to CAS.

The CAS filed a petition to confirm the arbitral award in the United States District Court, meanwhile, the Egypt Ministry of Defence petitioned to the Court of Appeal of Cairo to set aside the arbitral award. The Cairo Court nullified the final award with the reasoning that tribunal applied the Egyptian Civil Code instead of administrative law of Egypt. The District of Columbia (US) confirmed the award stating that according to the arbitration contract between the parties, the decision of the arbitral tribunal shall be final and binding and cannot be made subject to any appeal or other recourse. Hence, the court enforced the nullified award with a reasoning that Egyptian court decision violates the United States public policy.

In *République arabe d'Egypte v. Société Chromalloy Aero Services* (1997), the same award rendered in Egypt was brought for enforcement by CAS in France for which Egypt resisted. The Paris Court of Appeals ruled in favor of CAS, enforced the nullified award stating that enforcement of award is not against international public policy and the Egypt complied the award in 1997.

The same case tried to enforce in United Kingdom, Netherlands, European Court of Human Rights & France

A dispute arose between Mr. Nikolay Maximov (Claimant) and OJSC Novolipetsky Metallurgichesky Kombinat (NMLK)(2011) (Defendant) over purchase price. The International Commercial Arbitration Court of the Chamber of Commerce and Industry of the Russian Federation (ICAC) issued the award in favor of Mr. Nikolay Maximov. The NMLK challenged the award before the Moscow Arbitrazh Court which set aside the tribunal's decision (June 2011) and this was upheld by Federal Arbitrazh Court of Moscow District (FAC) (Sept 2011) and the same was upheld by the Supreme Arbitrazh Court, Russia (SAC), on the ground that the dispute was not arbitrable under the Russian law and violates public policy (Jan. 2012).

Mr. Maximov attempted to enforce the award annulled in Russia before the courts in Netherlands, England, France, and the European Court of Human Rights (ECtHR). The courts in United Kingdom, the Netherlands, and the European Court of Human Rights (ECtHR) refused to enforce the award, however, the court in France enforced the annulled award but eventually the French Supreme Court denied the enforcement (Meng Chen & Chengzhi Wang, 2018).

The Netherlands

In *Maximov v. OJCS Novolipetsky Metallurgichesky Kombinat* (2017), the award was sought for enforcement by Maximov in Netherlands. The Amsterdam District court concluded that it would enforce the annulled award only in exceptional circumstances and the present case does not fulfill such requirement (17 November 2011). The Amsterdam Court of Appeal refused to enforce the annulled award quoting that annulment decision on foreign awards should be respected and should not be interfered unless there is an evidenced that unfair procedure was followed in annulling the award (27 September 2016). On appeal, the Dutch Supreme Court upheld the decision of the Court of Appeal.

France

In *Maximov v. Novolipetsky Steel Mill (NLMK)(2012)* the set aside award was sought for enforcement in France, the Tribunal de Grande Instance in Paris concluded to enforce the annulled award stating that ICAC award is valid based on valid agreement between the parties and the reasons on which the award was annulled by the Russian court are not sufficient to refuse to recognize and enforce the award in France. The Paris Court of appeal upheld the decision of the Tribunal de Grand Instance of Paris (April 2014) to implement the annulled award but eventually the Supreme Court of France denied the application of enforcement of the annulled award (Meng Chen et al., 2018).

The United Kingdom

In *Nikolay Viktorovich Maximov v. Open .Joint Stock Company "Novolipetsky Metallurgichesky Kombinat"* (2017), the English court denied the recognition and enforcement of arbitral award delivered by ICAC Moscow and annulled by the Russian court, as the party requesting the enforcement of annulled award failed to establish that the judgment of the annulment was result of bias. It was also held that the courts in England consider the enforcement of the annulled award if a party seeking the enforcement able to prove that the award was annulled by violating principles of natural justice, fundamental rules of honesty and English public policy.

The European Court of Human Rights (ECtHR)

The Maximov commenced an action against the Russian Federation before the European Court of Human Rights (ECtHR) in respect of the annulment decisions. The European court found that that there was no reason to disregard the Russian annulment decisions, which did not constitute an unfair trial under Article 6 of the European Convention on Human Rights (ECHR) (Yearbook XLII, Netherlands no. 59, 2017).

Same case in the Netherlands and United Kingdom

The Netherlands

In *OAO Rosneft v. Yukos capital SARL* (2010), the International Commercial Court of Arbitration of the Chamber of Commerce Moscow rendered four awards in favor of Yukos capital. These awards were challenged by Rosneft and annulled by Moscow Arbitration Court, at the place of arbitration. The Amsterdam Court of Appeal is granted leave to Yukos to enforce

four arbitral awards against Rosneft in Netherlands stating that the foreign annulment judgment was not followed due process of law (The Court of Appeal in Amsterdam, 28 April 2009), and the Supreme Court of Netherlands declined to entertain appeal against the enforcement.

The United Kingdom

As the Rosneft failed to make payment even after Netherland's court decision, Yukos commenced proceedings in the United Kingdom according to the provisions of the New York Convention. The UK court refused to follow the Amsterdam court decision stating that the English public policy is different from Dutch (*Yukos Capital S.A.R.L. v. OJSC Rosneft Oil Compan*y, 27 June 2012). Rosneft made the payment in 2010. The High Court of Justice Queen's Bench Division allowed the Yukos claim and awarded the post award interest in favor of Yukos according to section 35A of the Senior Courts Act 1981 (*Yukos Capital SARL v OJSC Rosneft Oil Company*, 2014).

The Court in United States Refused to Enforce, However, the Court in France Enforced the Set Aside Award

In *International Bechtel Company Limited v. Depart., of Civil Aviation of the Government of Dubai (DCA)* (US District Court of Columbia, 5 February 2004), the arbitrators ordered DCA to pay damages to Bechtel. Bechtel applied to the Court of First Instance in Dubai to confirm the award, however DCA sought annulment of the award. The court denied Bechtel's request and the Court of Appeal in Dubai maintained the lower court decision declaring the arbitral award as invalid due to improper administration of oath to the witnesses. Bechtel appealed the decision before Court of Cassation of Dubai; meanwhile Bechtel filed enforcement petitions before the District Court of Columbia in US and in France. The District Court of Columbia stayed the enforcement proceedings until the final decision of Court of Cassation of Dubai. The Court of Cassation of Dubai affirmed the annulment of the award. The DCA submitted a petition in the District Court of Columbia to dismiss Bechtel's pending petition. The court granted the approval to DCA's request, stating that it has no jurisdiction, since the United Arab Emirates was not a signatory to the New York Convention (District Court, District of Columbia US 8 March 2005).

In France, Bechtel sought the enforcement of the award. The President of the Paris Court of First Instance granted enforcement. The DCA appealed the decision stating that the award was set aside by the highest court of Dubai (Dubai Court Cassation) and it should be recognized

under the bilateral agreement between UAE and France. The court denied this argument stating that the bilateral treaty applies only to the court decisions. The Court of Appeal in Paris dismissed the DCA's request and endorsed the enforcement. The French court applied the New French Code of Civil Procedure which provides that annulment of an award at the seat of arbitration is irrelevant and not a ground to refuse the enforcement in France. The court also stated that the set aside by a national court at the place of arbitration has no effect internationally as it is merely an expression of domestic sovereignty (*DGCA of the Emirate of Dubai v. International Bechtel Co. LLC (Panama),* France No. 36, Court of Appeal, Paris, 29 September 2005).

The analysis of the case law from different jurisdictions indicate that courts refused to enforce the annulled award when recognition and enforcement does not violate public policy of the enforcing State (*Baker Marine (Nig.) Ltd. v. Chevron (Nig.) Ltd,* 1999), when set aside was by a competent court at the seat of arbitration(*TermoRio v. Electranta,* 2007); or when the award was obtained by fraud on the tribunal (*IPCO (Nigeria) Limited v. NNPC,* 2015). The courts from same jurisdictions enforced the annulled awards, if the set aside judgment violated basic notions of justice or based on retrospective application of law, annulment was repugnant to fundamental notions of morality and justice in the enforcing State (*TermoRio S.A. E.S.P. v. Electranta S.P, 2007)*; annulment judgment violated basic norms of justice (*Corporacion Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. PEMEX-Exploracion y Produccion,* 2016); violated the terms of contract by appeal, which contains award binding agreement between the parties, and refusal to enforce violates enforcing State public policy (*Chromalloy Aeroservices v. République arabe d'Egypte,* 1996); if the annulling judgment was the result of unfair trail (*Maximov v. NLMK France,* 1997); and if the annulment is against the fundamental principles of what is decent and reasonable in the enforcing country(*Getma International v. Republic of Guinea,* 2017).

The study also demonstrates that the courts in United States (*Chromalloy Aeroservices v. République arabe d'Egypte,* 1996), France (*DGCA of the Emirate of Dubai v. International Bechtel Co. Limited Liability CLL Company (Panama),* France No. 36, Court of Appeal, Paris, 29 September 2005) and the Netherlands(*OAO Rosneft v. Yukos capital SARL,* 2010) followed liberal approach and enforced the annulled awards, basing on varying standards and considerations (*Ashley Stockton, Corporacion Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. PEMEX-Exploracion y Produccion,* 2014). Whereas the courts in United Kingdom (*Nikolay Viktorovich Maximov v. Open .Joint Stock Company "Novolipetsky*

Metallurgichesky Kombinat, High Court of Justice, 27 July 2017), and Germany (Year Book Comm. Arb.,717, 2000), followed rigid approach and refused to enforce the annulled awards. The set aside of award at the seat of arbitration based on grounds set out in Article V (1) (a) to (d) of the New York Convention are considered as International Standard Annulment (ISA). If the annulment was based on local standards (LSA) (Jan Paulsson, 1998) or non-arbitrability issue at the annulment forum, the courts in contracting State ignored the annulment decisions and agreed to enforce the annulment award Article VII of the NYC expressly negates any suggestion that the convention forbids a contracting State from recognizing an annulled award (Gary Born, 2021).

CONCLUSION

The analysis of the legal framework and case law from different jurisdictions concludes that the seat of arbitration plays an important role in the arbitration process, consequently in the recognition and enforcement of the award internationally. Therefore, the parties to the arbitration agreement must give serious consideration while choosing the seat of arbitration and choice of law. According to Article V (1) of the New York Convention, the courts in contracting States have the complete discretion in recognition and enforcement of award and if the court notices that there was a violation of fairness in annulment of award at the seat of arbitration, the enforcing court exercised its discretion and enforce the set aside tribunal award. The New York Convention does nothing to prevent contracting States from recognizing foreign awards, including awards that have been annulled in the arbitral seat.

RECOMMENDATIONS

The study recommends choosing a pro-arbitration jurisdiction for international arbitration to reduce the chances of an arbitration award being set aside. If a party intends to seek enforcement of the set aside award, it is preferred to choose liberal jurisdictions that allow the courts broader discretion to recognize and enforce the annulled awards, subject to the existence of assets of opposite party. Further, to avoid the situation of annulment of the award, the parties to the arbitration agreement may agree that the arbitral award is not subject to challenge before any court, i.e., at the seat of arbitration and any other enforcing State.

REFERENCES

AB Götaverken v. General National Maritime Transport Company (GMTC), Libya and others, Supreme Court, Sweden, 13 August 1979.

Ahmad Nasser Abuzaid, Yazan Emnawer Al Haraisa, Manal Mohammad Alateeq (2022). The Mediating Effect of Dynamic Capabilities on the Relationship Between Strategic Foresight and Strategic Renewal: Evidence from Islamic Banks in Jordan, *International Journal of Professional Business Review, Miami,* Vol.8, No. 4, p.01-15, https://www.openaccessojs.com/JBReview/article/view/369/222.

Baker Marine (Nig.) Ltd. v. Chevron (Nig.) Ltd., 191 F.3d 194, 196 (2d Cir. 1999).

Carters (Merchants) Ltd. v. Francesco Ferraro, Corte di Appello di Napoli, Italy, 20 February 1975, IV Y.B. Com. Arb. (1979).

Christopher Koch (2009). The Enforcement of Awards Annulled in their Place of origin, *Journal of International Arbitration. Kluwer Law International, Volume 26* (Issue 2), p.269.

Chromalloy Aeroservices v. République arabe d'Egypte, Tribunal de District des États-Unis pour le District de Columbia, 939 F. Supp. 907 (D.D.C. 1996).

Claude Clair v. Louis Berandi, Yearbook VII (1982) p.319 (France no. 4 sub-2), 20 June 1980.

Clifford J. Hendel and María Antonia Pérez Nogales (2019). *Enforcement of Annulled Awards: Differences Between Jurisdictions and Recent Interpretations'*, in Katia Fach Gomez and Ana M. Lopez-Rodriguez (eds), *60 Years of the New York Convention: Key Issues and Future Challenges*, Kluwer Law International, p. 194.

Company X SA v. State Y, Swiss Federal Tribunal, Switzerland, 9 December 2008.

Corporacion Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. PEMEX-Exploracion y Produccion (PEP), United States Court of Appeals, Second Circuit, Docket No. 13 4022, 2 August 2016, Yearbook Commercial Arbitration 2017 - Volume XLII (Van den Berg (ed.) Dec 2017).

Denysiana S.A. v. Jassica S.A., Swiss Federal Tribunal, Switzerland, 14 March 1984.

Directorate General of Civil Aviation of the Emirate of Dubai v. International Bechtel Co. Limited Liability Company (Panama), France No. 36, Court of Appeal, Paris, 29 September 2005; Yearbook Commercial Arbitration 2006 - Volume XXXI (Van den Berg (ed.) Jan 2006.

Dowans Holdings SA & others v. Tanzania Electric Supply Ltd., High Court of Justice, Queen's Bench Division, Commercial Court, Case No. 2010 Folio 1539, 27 July 2011.

EDF International S.A v. Endessa Latinoamerica SA & YPF SA., STJ. Special Panel (*Corte Especial*).

Felix Weinacht (2002). Enforcement of Annulled Foreign Arbitral Awards in Germany. *Journal of International Arbitration, Kluwer Law International, Volume 19* (Issue 4), p. 316.

Gary Born (2014), *International Commercial Arbitration.* (2nd ed.) Vol. 3, Kluwer Law International, pp. 362-363.

Gary Born (2021), *International Commercial Arbitration.* (3rd ed.), Kluwer Law International, p.98.

Getma International v. Republic of Guinea, United States Court of Appeals, District of Columbia Circuit, 16-7087, 07 July 2017.

Hisar Sirait, Sylvia Sari Rosalina & Erna Sari (2023). The impact of digital innovation on economic growth, *International Journal of Professional Business Review*, Doi: https://doi.org/10.26668/businessreview/2023.v8i6.1842.

International Bechtel Company Limited v. Department of Civil Aviation of the Government of Dubai, United States District Court, District of Columbia, 8 March 2005.

IPCO Limited v. Nigerian National Petroleum Corporation (NNPC), EWCA Civ 1144, High Court of England and Wales, Queen's Bench Division, Commercial Court, Case No. A3/2014/1282, 10 November 2015.

Jan Paulsson (1998), *Enforcing Arbitral Awards Notwithstanding a Local Standard of Annulment. 9(1) ICC INT'L CT. Arb Bull 14, 16.*

Jean Alain Penda Matipe and Ndudi Councillor Olokotor (2018). Rethinking the Role of African National Courts in Arbitration. *Kluwer Law International*, 2018, p. 101.

Karaha Bodas Co. LLC., v. PP Minyak Dan Gas Bumi Negara, U.S. Court of Appeals, 2d Cir., September 7, 2007, XXXIII Y.B. Com. Arb 1009 (U.S. No. 627 (5, 18-19) (2008).

Luca G. Radicati di Brozolo (2014). The Enforcement of Annulled Awards: Further Reflections in light of Thai-Lao-Lignite. 25 *American Review of International Arbitration* 47.

Mashhour H. Maharmah (2023). Does the foreign direct investment affect economic growth in Jordan in light of Commercial openness, *International Journal of Professional Business Review*, https://doi.org/10.26668/businessreview/2023.v8i5.2088.

Maximov v. NLMK France, 14 January 1997, Cour d'appel de Paris.

Nikolay Maximov vs/ OJSC Novolipetsky Metallurgichesky Kombinat (NMLK), Moscow Arbitrazh Court, 28 June 2011.

OAO Rosneft v. Yukos capital SARL, Supreme Court, 09/02566, 25 June 2010.

Pabalk Ticaret Ltd. Sirketi (Turkey) v. Norsolor SA (France) Cour de Cassation, 9 October 1984.

Putrabali Adyamulia v. Société Rena Holding et Société Moguntia Est Epices, Court of Cassation, Civil Chamber, 29 June 2007.

Renusagar Power Co. Ltd v. General Electric Co., All India Reporter 1994 (Supreme Court) 860.

République arabe d'Egypte v. Société Chromalloy Aero Services, Cour d'appel de Paris, France, 14 January 1997.

Sae Youn Kim & Marieke Minkkinen (2017). *An Asian Perspective on the Enforcement of Annulled Awards*, in Andrea Menaker (ed), International Arbitration and the Rule of Law: Contribution and Conformity, ICCA Congress Series. Volume 19, Kluwer Law International, p. 382.

SEEE v. Socialist Republic of Yugoslavia, Dutch Supreme Court, November 7, 1975, N.J. 274 (1976).

Société Hilmarton v. Omnium de Traitement et de Valorisation (OTV), Judgment of Mar. 23, 1994, Cass. 1e civ., 1994 Revue de l'Arbitrage 327.

Spier v. Calzaturificio Tecnica S.p.A., 663 F. Supp. 871 (S.D.N.Y., No. 86 Civ. 3447 (CSH) 1987).

TermoRio v. Electranta, 487 F.3d 928 (D.C. Cir. 2007).

Thai-Lao Lignite (Thailand) Co., Ltd. v. Government of the Lao People's Democratic Republic, 2d Cir (2017).

Veteran Petroleum Limited (Cyprus) v. The Russian Federation, the French Tribunal de Grande Instance d'Evry, Decision of 10 Feb. 2017, Tribunal de Grande Instance d'Evry (Affaire no 16/104274).

Yearbook XXX (2005). At pp. 1113-1117 (US No. 517).
Yearbook, Commercial Arbitration (1989). Volume XIV, Kluwer Law and Taxation Publishers, Boston, p. 595.
Yukos Capital S.A.R.L. v. OJSC Rosneft Oil Company, 27 June 2012, England and Wales, Court of Appeal, Civil Division, A3/2011/1790.