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THE KEY ISSUES OF THE EXECUTION OF THE ARBITRAL AWARDS IN THE REPUBLIC OF ARMENIA

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In this scientific article, the author investigated and observed the arbitral awards enforcement regimes on the territory of the Republic of Armenia. Observation of the legislation of the Republic of Armenia in the relevant field revealed features of state compulsory enforcement of arbitral awards of ad hoc institutions on the territory of the Republic of Armenia, permanent arbitration awards and finally arbitration tribunal decisions not exceeding the minimum wage by five thousand time. Some valuable recommendations have been made to improve voluntary enforcement of arbitral awards.

The contemporary issues of co-called domestic arbitral awards state compulsory enforcement have been discussed in comparison with western developed countries legal practice. In the article, the author made some suggestions regarding improvement of the legislation on commercial arbitration, mainly concerning the protection of subjective rights.

Moreover, the author presented the practical guideline how to exclude by law the private entity eligibility of state compulsory enforcement.

Key words: *Arbitral award, voluntary enforcement, compulsory enforcement, writs of execution, deferred judicial review, commercial arbitration, ad hoc arbitration*

Mechanism for the effective protection of violated or contested subjective rights are of key importance for every legal state. The positive duty to ensure such protection is determined by the international conventional obligations undertaken by the state, as well as the need to fulfill constitutional legal issues[1]. Furthermore, the domestic legislation of the Republic of Armenia provides an equal legal environment for the protection of rights for all participants in civil circulation, regardless of their legal status, nature of activity, or other circumstances. It should be noted, however, that the legal status and nature of the activities of the participants in civil circulation may sometimes determine the choice of a particular form or mechanism of protection of subjective rights stipulated in the legal system of the Republic of Armenia.

This is because such means of protection may have specific characteristics that can be best addressed by the legal mechanisms provided in the legal system of the Republic of Armenia, resulting in the most effective outcome for the subjects of the law[2]. It is noteworthy that to successfully implement the discussed issue, ongoing changes have recently been undertaken in the domestic legal system. These changes are mainly aimed at reducing the overload of the judicial

[1] See European Convention on Human Rights, Article 6: Right to a fair trial, United Nations International Covenant on Civil and Political Rights, Article 14, Constitution of the Republic of Armenia, Chapter 2.

[2] See **V. Hovhannisyan, S. Meghryan, V. Esayan, P. Tadevosyan, A. Gharslyan, T. Markosyan, Y. Khundkaryan,** Civil Procedure textbook (1), chapter - The means of protection of subjective rights, Yerevan, 2022.

system and promoting alternative forms and methods of rights protection. Although these two directions are mutually intertwined, an increase in successful implementation of rights protection or alternative dispute resolution means can lead to a decrease in the statistics of recourse to judicial dispute resolution. However, it should be kept in mind that this process must proceed naturally and be conditioned by the effectiveness of the enforcement of alternative forms of rights protection.

According to Article 86 of the "Partnership and Cooperation" Agreement signed between the Republic of Armenia and the European Community back in April 22 1996 and entered into force on July 1, 1999, the parties shall encourage the settlement of disputes arising from commercial and cooperative transactions by arbitration, as well as encourage recourse to the arbitration rules elaborated by the United Nations Commission on International Trade Law (UNCITRAL) and to arbitration by any center of a State signatory to the Convention on Recognition and Enforcement of Foreign Arbitral Awards adopted in New York on 10 June 1958.

Providing favorable conditions for settling disputes through arbitration is necessary to achieve the constitutional and legal objectives of the state. Specifically, Article 86(1) of the Constitution of the Republic of Armenia defines the main goal of the state's policy as improving the business environment, the primary prerequisite of which is providing effective domestic structures for the protection of rights.

The protection of subjective rights implies the existence of effective mechanisms to realize the right to protection. It is pointless to undertake the protection of any violated or contested right or legal interest if there is no possibility to enforce them effectively in the future, meaning the full possibility of the enforcement of the act aimed at protecting the right. The state has a duty to ensure the execution of the act, which is also supported by the precedent practice of the European Court. The Court has held that the enforced execution of the judicial act is an effective means of the right to judicial protection. Without the effective enforcement of judicial acts, the entire judicial activity could be rendered meaningless[3].

The duty of the state to ensure the execution of arbitral awards derives from the international and domestic legal framework, including the "Convention on the Recognition and Enforcement of Foreign Arbitral Awards"[4] the law of Republic of Armenia on "Commercial Arbitration" (2006)[5] and the RA Civil Procedure Code[6].

A complex analysis of the legal norms regulating the enforcement of arbitration awards in the Republic of Armenia reveals two primary regimes for ensuring their enforcement in the territory of the Republic of Armenia. The first regime operates **under state control**, in which the grounds for refusing the enforcement of an arbitration award are applicable. The second regime operates **without state control**,

[3] See Commentaries to the Armenian Constitution, Yerevan, "Iravunq", 2010, p. 210.

[4] See United Nations Commission on International Trade Law. Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

[5] See RA Law on "Commercial Arbitration", 2007.01.31/8(532).

[6] See Civil Procedure Code of the RA, 2018.03.05/16(1374).

whereby an arbitration award is subject to compulsory execution without being sanctioned by the state. In this regime, the existence of grounds for rejecting the compulsory execution of the arbitration award is not reviewed.

The state-controlled regime, in turn, is further divided into two categories, namely, "domestic" and foreign arbitration proceedings for the enforcement of writs of execution. When the place of arbitration is located within the territory of the Republic of Armenia, the rules of procedure for cases with applications for the enforcement of an arbitration award (Chapter 46 of the Civil Procedure Code) are applicable. On the other hand, in cases where the arbitrations are held in foreign countries or involve international commercial arbitration awards, the rules of procedure for cases with applications for recognition and enforcement (Chapter 47 of the Civil Procedure Code) apply.

In other words, in the case of arbitration awards made on the territory of the Republic of Armenia, an application for issuing a writ of execution is submitted to the court (Articles 321-322 of the Civil Procedure Code of the Republic of Armenia). Meanwhile, in the case of foreign (international) arbitration awards, an application is submitted for recognition and enforcement (Articles 326-327 of the Civil Procedure Code of the Republic of Armenia).

Legal regulation, which seems logical at first glance, cannot fully reflect the principles that ensure the enforcement of arbitration awards, which are scientifically justified and based on advanced international practice. In particular, both in legal theory[7] and in Armenian legislative practice and legislation, there is a distinction between acts that require performance and those that do not require performance as separate types of acts aimed at protecting subjective rights.

Furthermore, in cases provided for by law, acts that do not require enforcement are presented only for recognition, while acts that require execution are presented for recognition and enforcement. It is noteworthy that legal doctrine also recognizes the approach that acts not requiring enforcement operate with full effect from the moment of adoption, granting the person the appropriate status or rank. Therefore, there is no need for separate recognition of their legal action in the territory of another state (for example, a judgment of divorce nullifying the marriage or a judgment declaring a person incapacitated due to mental disorder operates in all countries)[8]. However, this approach has been criticized because there are many judicial acts that do not require execution but recognition of their legal action in the territory of the Republic of Armenia is necessary to ensure the principle of legal certainty and other priorities established by law.

The recognition of foreign judicial acts not requiring execution is possible in the Republic of Armenia, as provided for in Articles 52 and 55 of the Minsk and Chisinau Conventions, and Parts 1 and 6 of Article 346 of the Civil Procedure Code of the Republic of Armenia. This recognition can apply to both the

[7] See **R. C. Crampton, D. P. Currie, H. H. Kay, L.** Kramer Conflict of Laws. Cases, Comments. Questions/ Fifth edition. ST paul, 1993, pp. 404-406, **Lits, M. O.** Recognition and enforcement of foreign court and arbitration decisions in the Russian Federation: correlation between international legal and domestic regulation. Dissertation for the degree of Candidate of Juridical Sciences, Ekaterinburg, 2002, pp. 55-56, etc.

[8] See **Yablochkov, T. M.** Works on Private International Law (Classics of Russian Civil Law. Private International Law). Moscow, Statut, 2009, pp. 162-164.

acts fully satisfying the claimant's claim and the acts rejecting the claims, whether in whole or in part. Such recognition may be necessary in cases where there is a procedural prohibition or obstacle to investigating the same case between the same parties on the same subject matter and factual basis (res judicata). It is apparent that in the case of a judgment rejecting the claims, no enforcement of the claimant's material rights is involved, and the acts are therefore subject to mere recognition.

Based on the legal analysis presented, it appears that the RA legislator did not differentiate between the regimes of sanctioning the legal action of arbitral awards requiring enforcement and those not requiring enforcement. This lack of differentiation may create issues regarding the execution of writs only with acts subject to recognition or with the necessity of recognition.

Furthermore, the distinction between the procedures for sanctioning the legal validity of domestic and foreign arbitration awards in the Civil Procedure Code of the RA is perplexing.

Only domestic arbitral awards that require enforcement within the Republic of Armenia are sanctioned, while foreign arbitral awards are merely recognized, and a writ of execution is provided for enforcement.

Additionally, the regulations stated in the Civil Procedure Code of the RA for sanctioning the legal effect of arbitration awards unify the actions of issuing a writ of execution for recognition and enforcement, which can’t be performed or considered separately.

The Civil Procedure Code of the RA does not provide recognition of arbitration awards that do not require execution as a distinct legal action, which deprives parties of certain legal tools derived from the principle of legal certainty.

The concept of having distinct procedures for legal recognition of awards resulting from RA and foreign arbitrations raises concerns. This is because in both situations, the acts are made by private parties who are not acting on behalf of the state or implementing justice. As a result, the state's primary responsibility is to conduct deferred judicial oversight of the arbitration process and verify the grounds for refusing recognition and enforcement of arbitration awards, as per the provisions of Article 36 of the RA Law "On Commercial Arbitration" and the New York Convention.

Additionally, it is remarkable that the arbitration law considers recognition and enforcement of arbitration awards as autonomous legal actions.

The Article 35 (Parts 1 and 2) of the RA Law "On Commercial Arbitration" specify that the arbitration tribunal's award made within the Republic of Armenia or any other state that is a member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall be recognized as mandatory and enforced by filing a motion to the court in accordance with Articles 35 and 36 of the Law.

The party relying on the award or filing a motion on its enforcement must provide the original or a duly authenticated copy of the award, as well as the original or a duly authenticated copy of the arbitration agreement referred to in Article 7 of the Law.

Furthermore, Article 36 of the Law on Arbitration under the heading "Grounds for refusal of recognition or enforcement" states that "Recognition or

enforcement of an arbitral tribunal's award, which was made within the Republic of Armenia or any member of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in the territory of another state, can be refused only...".

T**he Arbitration Law makes a clear distinction between recognizing arbitration awards and motioning the enforcement as separate legal actions, without distinguishing between awards made in Armenia or other states that are parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.**

Moreover, the law also emphasizes the importance of relying on arbitral award and motioning its execution, in what conditions, the possibility of presenting only recognition of arbitration awards that do not require execution, including the rejection of claims within the scope of res judicata, becomes actual.

From our perspective, when a state recognizes an arbitral award, it acknowledges the legal consequences that come with it, including the mandatory nature, exclusivity, irrefutability, and, if necessary, enforceability.

This recognition endows the arbitral award with these features, as the Civil Procedure Code of the RA prohibits revisiting the same dispute between the same parties on the same factual grounds and issue that the award has already resolved (Articles 126 and 182), once the period for annulment of an arbitration award by the court has expired, or if the award has been corrected or an additional award has been made, or if the parties no longer have the opportunity to do so, it is not subject to change or addition in any way[9], is mandatory for execution for those to whom they are addressed and shall be subject to execution throughout the whole territory of the Republic of Armenia (Art. 5, sections 5 and 8).

Some legal experts argue that the state recognizes the arbitration awards “ex lege” and does not require any motion to the court, as long as enforcement is not necessary[10].

This view is supported by the fact that, according to procedural codes, the existence of an arbitration award on the same dispute between the same parties, if a writ of execution was not refused, serves as a basis for dismissing the statement of claim or terminating the proceedings by the court, which demonstrates the unique nature of arbitration awards recognized by the state. However, it should be noted that recognition of foreign arbitral awards can confer upon them legal effects that extend beyond their exclusivity, particularly in the case of declaratory awards.

Lebedev suggests that the recognition of arbitration awards also includes the feature of prejudicial circumstance[11]. However, this feature cannot be ap-

[9] According to Article 34, sections 3 and 4 of the "On Commercial Arbitration" law of the RA, an application for annulment of an arbitral award cannot be submitted after three months from the date of receiving the tribunal's decision. If an application is made under Article 33 of the law to correct errors in the award, such as arithmetic, typographical, or other similar errors, or to request an additional award, the application must be submitted within three months from the date of the tribunal's decision on that matter. If an application for annulment is submitted, the court may suspend the proceedings for a certain period of time, at the request of either party or at its own discretion, to allow the arbitral tribunal to resume the arbitration process or take other proper measures that may remedy the grounds for annulment of the award.

[10] Karabelnikov B.R. International Commercial Arbitration, M, Infotropic Media, 212, 276-282.

[11] Lebedev SN International comm arb M., 1965, page 21.

plied in RA due to the interpretation of the civil procedure regulations by the RA Court of Cassation. The Court of Cassation considers the rules of adversarial system proceedings as the determining factor for establishing pre-judgment of any circumstance. Therefore, if a circumstance is established without following formal procedural rules, with a serious violation of procedural rules of evidence collection, research, and evaluation, or with limitations on the procedural possibilities of one party, then the court shall not recognize it as prejudicial for the case under examination[12].

It is widely recognized that the strict adherence to procedural formalities in arbitration cannot have the same applied meaning as it does in civil proceedings. As per Article 19 of the RA Law "On Commercial Arbitration", the parties are free to agree on the procedure to be followed by the arbitration tribunal. In the absence of such an agreement, the tribunal is empowered to conduct the proceedings on its own discretion, provided that it is in compliance with the regulations of the law (proper, appropriate). One of the powers conferred to the arbitral tribunal is the power to determine the admissibility, relevance, materiality and significance of evidence.

We believe that there is a gap in domestic legal regulations determining the extent to which arbitration awards are mandatory and have legal force. In particular, on the one hand, the Arbitration Law distinguishes between the legal actions of recognition of an arbitration award and enforcing it in court, on the other hand, the RA Civil Procedure Code stipulates different procedures for sanctioning arbitration awards in the territory of the Republic of Armenia and foreign arbitration awards, without specifying recognition as a legal action for arbitration awards made in the territory of the Republic of Armenia, while for foreign arbitral awards, recognition and motion on enforcement are considered a joint legal action. From a legal perspective, such regulation does not establish a significant distinction between the mandatory nature of "domestic" and foreign arbitral awards or other legal action features because, under Articles 126 and 182 of the RA Civil Procedure Code, the court dismisses a statement of claim or terminates the case proceedings if there is an arbitral award concerning the case between the same persons, over the same subject and on the same factual grounds, except for the case where the court refuses to issue a writ of execution for enforcement of the arbitral award. Furthermore, according to Article 180 of the Civil Procedure Code, the court shall leave the claim without consideration in any stage of proceedings, if there is a case concerning a dispute between the same persons, on the same subject matter and on the same factual grounds in the proceedings of the same or another court or in the arbitration tribunal. Thus, domestic procedural law does not differentiate between the civil procedural consequences of arbitration conducted in the territory of the Republic of Armenia or foreign countries, nor the legal effect of rendered awards.

In addition, the determination of the limits of the mandatory nature of the legal effect of the arbitration award is also problematic in the sense that the systematic analysis of the norms of the RA Law "On Commercial Arbitration", the RA Civil Procedure Code, and the RA Law "On Enforcement of Judicial

[12] See the decision of the RA Court of Cassation No. 3-93 (VD) of 29.02.2008 on the civil case.

Acts" does not allow a clear draw a conclusion about the beginning and limits of the mandatory nature of the arbitration award. Thus, by concluding an arbitration agreement, the parties accept the mandatory nature of the arbitration award, because an arbitration agreement is an agreement concluded between the parties in relation to a certain contractual or non-contractual legal relationship to submit all or certain existing or possible cases to **arbitration** (emphasis mine) ("On Commercial Arbitration" **Article 7** of RA Law). **Meanwhile**, the RA Law "On Commercial Arbitration" **does not define the procedure and possibility of voluntary execution of arbitration awards, thereby creating certain risks for the party, voluntarily executing the award. The state may not accept the voluntary execution of the arbitration award, considering such execution groundless.** In order to avoid such a risk, the party should at least have a legislative opportunity to submit the arbitration award for recognition, while according to Article 321 of the RA Civil Procedure Code, the court examines the application on issuing a writ of execution for enforcement of the arbitration award in the event that the venue of arbitration has been the territory of the Republic of Armenia, and issuing a writ of execution for the enforcement of the arbitration award is also examined based on the application of the person in favor of whom the arbitration award was made. Such legal regulation not only de facto deprives the losing party of the opportunity to apply to the court for voluntary execution or recognition of the award, but also establishes an absolute requirement for deferred judicial control over the arbitration, which cannot be justified. It should be noted that the enforcement of the act is a facultative way of exercising the right, and it works only in cases when the party does not voluntarily fulfill the requirements of the arbitration award or judicial act. It turns out that the domestic legislation excludes the possibility of legal enforcement of the arbitration award without judicial control.

In our view, the fact of concluding the arbitration agreement makes the arbitration award mandatory for the parties, and it is not appropriate to draw direct comparisons between the limits of the mandatory nature of the arbitration award and that of a court's award. The mandatory nature of a judicial act is aimed at an indefinite range of persons, as it is mandatory for all, including the citizens of the RA and legal entities, state and local self-govern bodies in the Republic of Armenia. On the other hand, the mandatory nature of an arbitration award can only be extended to a certain extent after it has been recognized by the state, especially if it concerns acts that do not require enforcement. *Therefore, it is crucial to stipulate a procedure and an opportunity to apply to the court for the voluntary execution and recognition of the arbitration award in the RA Law "On Commercial Arbitration" and the Civil Procedure Code, in order to safeguard the rights and interests of Actors in civil transactions and mitigate potential risks.*

Besides, the Civil Procedure Code of RA defines different subjectness for submitting an arbitral award enforcement application to the court, referring to whether the award was granted within the territory of RA or not.

According to the Article 321 (2) a writ of execution for enforcement of the arbitral award shall be examined by the court based on the application of the person in favour of whom the arbitral award has been made, meanwhile, issues of recognition and enforcement of foreign arbitral awards shall be examined

upon an application filed by a party to foreign arbitration Article 326 (2).

The current arguments are based on the fact that the arbitral awards granted on the RA territory do not need enforcement. But the legislative discarded the fact that the arbitration might be international even if proceeded on the territory of the RA.

Nevertheless, both in international legal acts and legal academic collocation an arbitration is international if the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States, or one of the following places is situated outside the State in which the parties have their places of business, the place of arbitration if determined in, or pursuant to, the arbitration agreement, any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected or the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.[13]

Although the exterritoriality of arbitration agreement parties is emphasizing the international origin of arbitration, it is important to underline that arbitral disputes derive from international trade and other international economic relations.[14]

The following inaccurate legal regulation is a consequence of the wrong perception of international arbitration conduct and character and, undoubtedly, it must be reviewed.

A complete review of the RA legislation on arbitration law also reveals omissions in the recognition and enforcement of arbitral awards. Hence, according to the RA Law on Commercial Arbitration, arbitral awards not exceeding the minimum wage by five thousand times are sent for compulsory enforcement directly by arbitration institutions. Therefore, the private institutions are endowed with eligibility for state compulsory enforcement, which must be absolute state priority.

According to the latest corrections on the Law on Commercial Arbitration of RA, the parties may appeal the arbitral award only. If the right of appeal is not provided in arbitral agreement, the state compulsory enforcement is inevitable.[15]

The Article 35 (4) of Law on Commercial Arbitration states that the permanent arbitration institution sends the decision of the arbitral tribunal for enforcement to the Enforcement Proceedings Service by electronic message if:

1. the arbitration was conducted by a permanent arbitral institution or
2. the place of arbitration was the territory of the Republic of Armenia, or
3. the party to the arbitration is a citizen of the Republic of Armenia or a Legal entity registered in the Republic of Armenia, or
4. the amount recoverable by the award does not exceed the minimum wage by five thousand times.

In these cases, the arbitral awards may be compulsorily enforced based on the application of the person in favour of whom the arbitral award has been made. An application on issuing a writ of execution for enforcement of arbitral

[13] UNCITRAL Model Law article 1(3), Tibor Varadi, The international commercial arbitration in different legal systems, 1998 p. 52

[14] Rene David, Arbitration in International Trade, 1985, p. 84

[15] Accepted 23 December, 2022 584-N

award may be submitted within a one-year period but not earlier than three months from the date when it is received (Article 35.1).

The following changes have designs on compulsory enforcement for the arbitral awards granted on the territory of the RA. Mainly, to improve the enforcement proceedings for so-called" domestic" arbitration awards. Nevertheless the Article 4(3) refers to both international and domestic arbitration proceedings. On the whole, the legal discrepancy between the Law on Commercial Arbitration and Civil Procedure Code (unit 47) is inevitable.

The Law on Commercial Arbitration state one of the arbitral parties must be either national of the RA or a legal entity registered in the RA. The following regulation does not make foreigners in the arbitration process impossible. We may consider the determination of international arbitration within the framework of the RA legislation has an institutional concept.

Nevertheless, the eligibility of compulsory state enforcement for private institutions is unconstitutional and unprecedented not only for the RA but also for many other developed countries. This limits the grounds for rejecting the applications for enforcement of arbitral awards. However there are few countries in which the arbitral award may be sent for enforcement directly by the arbitration institutions. But in that case the state has a capacity to observe the grounds for enforcement rejection, which is absolute state priority. The following legal practice provides state supervision functions on arbitration.

According to the Swedish Arbitration Act (Section 57) an application for enforcement shall not be granted unless the opposing party has been afforded an opportunity to express its opinion upon the application. A decision of the Enforcement Service applies immediately. However, a default fine may not be enforced before the decision, in respect of which the Enforcement Service has confirmed the default fine, has entered into final legal force.[16] The Enforcement Code of Sweden (Section 18) states if there is no impediment against enforcement of the arbitration award, it is enforced as a judgment that has entered into final legal force, unless otherwise ordered by the Court where the action against the arbitration award is pending.[17]

Arbitration awards are recognized and may, by leave of the court, be enforced in the same manner as a judgment or order of the court to the same effect also in United Kingdom (Arbitration Act 1996, Section 101).[18] The same legal policy is practiced in Germany[19], USA[20] and other developed States.

[16] The Swedish Arbitration Act (The Swedish Code of Statutes (SFS) 1999:116, updated as per SFS 2018:1954) https://sccarbitrationinstitute.se/sites/default/files/2022-11/the-swedish-arbitration act_1march2019_eng-2.pdf

[17] The Enforcement Code (1981:774) (including amendments up to SFS 2001:377)` https://www.regeringen.se/contentassets/1500e590992c4340a9600211fbc609b0/the-enforcement-code-1981774/

[18] Arbitration Act 1996, https://www.legislation.gov.uk/ukpga/1996/23/contents

[19] German Arbitration Act The following provisions of the Arbitral Proceedings Reform Act entered into force on 1 January 1998. Subsequent amendments, i.a. by the Civil Procedure Reform Act of 27 Jul.

2001 and the Law of Contracts Reform Act of 26 Nov. 2001 have been incorporated. Article 1, No. 7 of the Arbitral Proceedings Reform Act: Tenth Book of the Code of Civil Procedure Arbitration Procedure Sections 1025 – 1066 https://sccarbitrationinstitute.se/sites/ default/files/2022-11/german-arbitration-act.pdf, https://www.disarb.org/fileadmin/user_upload/Wissen/Deutsches_ Schiedsverfahrensrecht_98_-_Englisch.pdf

The overview of the RA legislation on arbitral awards compulsory enforcement has three regimes.

First, the judicial sanctioning of permanent arbitration awards (exceeding the minimum wage by five thousand time) and ad hoc arbitration awards provides capacity to supervise the grounds of rejections of enforcement through deferred judicial review of arbitration.

Secondly, the recognition of foreign arbitral awards and issuance of a writ of execution for enforcement of arbitral award by the court. This also provides capacity to supervise the grounds of rejections of enforcement.

And the last, permanent arbitration awards (not exceeding the minimum wage by five thousand time) compulsory enforcement without state capacity to supervise the grounds of rejections of enforcement. As a result, the arbitral institution becomes an authorization applying state coercion.

We must state, within following legal framework protection of subjective rights through arbitration is ineffective. Ineffective legal mechanisms of arbitration awards enforcement may negatively impact the protection of rights through arbitration. Subsequently, the realization of rights concluded in the final act, arbitral award, is also unproductive.

According to Article 361 1(9) of Civil Procedure Code of RA decision delivered in the result of examination of application on recognition and enforcement of a foreign arbitral award shall be subject to appeal by appellate procedure. This differentiates the protection from unlawful exequatur of judgments for "domestic" and "foreign" arbitration.

Practical approaches and features of arbitral awards enforcement on the territory of RA must be reviewed urgently. Voluntary enforcement of arbitral awards must be legally recognized as primary.

In the event of non-compliance with arbitral award voluntarily, the parties must be provided with compulsory enforcement abilities. And finally, the eligibility of state compulsory enforcement capacity of private entities must be excluded by law.

ՎԱՀԵ ՀՈՎՀԱՆՆԻՍՅԱՆ – *Հայաստանի Հանրապետության տարածքում արբիտրաժի վճիռների կատարման առանձնահատկությունները* – Հոդվածում հեղինակի կողմից ուսումնասիրվել և համակարգային վերլուծության են ենթարկվել Հայաստանի Հանրապետության տարածքում արբիտրաժի վճիռների կատարման իրավական ռեժիմները: Առանձնացվել են երկրում իրականացված արբիտրաժի վճիռների, օտարերկրյա արբիտրաժի վճիռների, ինչպես նաև Հայաստանի Հանրապետության տարածքում մշտապես գործող արբիտրաժային հաստատությունների տրիբունալների՝ նվազագույն աշխատավարձի հինգհազարապատիկը չգերազանցող վճռների կատարման առանձնահատկությունները: Կատարված գիտահետազոտական աշխատանքի արդյունքում բացահայտվել են նշված իրավակարգավորումների մի շարք թերություններ և հակասություններ այլ նորմատիվ իրավական ակտերի հետ: Հոդվածում արվել են առաջարկություններ, մասնավորապես՝ համակարգային առումով վերանայել և վերաիմաստավորել Հայաստանի Հանրապետութ-

[20] The Federal Arbitration Act (USA) https://sccarbitrationinstitute.se/sites/default/files/2022-11/the-federal-arbitration-act-usa.pdf

յան տարածքում արբիտրաժային վճիռների կատարման ինստիտուտի գործառական առանձնահատկությունները՝ կամավոր կատարումն օրենսդրորեն ամրագրելով որպես արբիտրաժի վճիռների կատարման առաջնային եղանակ: Հոդվածում հիմնավորվել է, որ արբիտրաժի վճիռը կամավոր չկատարվելու պարագայում իրավունքի սուբյեկտների համար պետք է ապահովել հարկադիր կատարում պահանջելու լիարժեք հնարավորություն՝ անկախ արբիտրաժի տեսակից, որպիսի պայմաններում դատական կարգով հնարավոր կլինի ստուգել վճռի հարկադիր կատարումը մերժելու հիմքերի առկայությունը, ինչպես նաև օրենսդրորեն բացառել իրավունքի մասնավոր սուբյեկտների կողմից պետական հարկադրանքի կիրառման ոչ իրավաչափ հնարավորությունը: Հեղինակը համադրումներ է կատարել նաև արևմտյան առաջատար երկրների իրավակակարգավորումների հետ:

Բանալի բառեր – *արբիտրաժի վճիռ, կամավոր կատարում, հարկադիր կատարում, ճանաչում, կատարողական թերթի տրամադրում, կատարման մերժում, դատական վերահսկողություն, օտարերկրյա արբիտրաժ*

ВАГЕ ОГАНИСЯН – ***Некоторые ключевые аспекты принудительного исполнения арбитражных решений на территории Республики Армения.*** – В рамках данной статьи автором исследованы и проанализированы правовые режимы исполнения арбитражных решений на территории Республики Армения. В работе выделены и исследованы особенности арбитражных решений, принятых на территории Республики Армения, решений, принятых международным арбитражем, а также решений арбитражных институтов-трибуналов на территории Республики Армения, не превышающих минимальную заработную плату в пять тысяч раз. В результате проведенного исследования был выявлен ряд неточностей и противоречий в правовом регулировании вышеуказанных вопросов. Автором предлагается пересмотреть, а также и переосмыслить, и системно представить практические особенности института исполнения арбитражных решений на территории Республики Армения, при этом провозгласить на законодательном уровне добровольное исполнение в качестве первичного пути.

В данной статье автор обосновывает необходимость обеспечения полноценных условий для требования принудительного исполнения в случае добровольного неисполнения арбитражного решения для субъектов правоотношений судебным путем. Независимо от вида арбитража участники должны иметь возможность проверить наличие правовых положений об отказе принудительного исполнения. Еще одна важная проблема выявлена в сфере субъектов уполномоченных принимать принудительные меры для осуществления арбитражных решений. Как известно, в Республике Армения государственная принудительная система является абсолютной прерогативой государства, а не частных субъектов.

Ключевые слова: *арбитражные решения, принудительное исполнение, коммерческий арбитраж, исполнительный лист, перманентный арбитраж, международный арбитраж, институт исполнения арбитражных решений*