Dispute Resolution Group of Deloitte Legal informs that on 2 July 2019, at the 22nd Diplomatic Session of the HCCH, the Russian Federation signed the Final Act of, thus adopting, Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (‘the Convention’). Please note that the Convention has not yet entered into force.

Nowadays Russia has only separate agreements with other countries on the recognition and enforcement of foreign judgements, e.g.:

- the Minsk Convention 1993 (former USSR, except Lithuania, Latvia, and Estonia)
- the Kiev Agreement 1992 (CIS)
- 28 bilateral treaties with other foreign countries.

However, there are no agreements on the recognition and enforcement of foreign judgements with the USA, Germany, France, and the United Kingdom.

Judicial Department of the Supreme Court 2018 shared statistics showing that there is no unified legal space for the protection of foreign counterparties before. The Russian judicial system is rather unattractive for the foreign business: less than 300 requests to recognize and enforce foreign judgements were filed with the arbitration tribunal last year, with a little over two thirds of them granted.

The Convention provides access to justice for all. The creation of a uniform set of core rules on the recognition and enforcement of foreign judgements in civil or commercial matters will improve judicial co-operation in the whole world, as stated in the Convention.

When the Convention is ratified, judgements of foreign courts will be recognized at par with the judgements of national courts.

We believe that when the Convention is adopted and ratified it will promote international trade and ensure its stability, which is essential for the globalization of Russia’s economy. Also, with the Convention in place, recognition and enforcement of a judgement in other jurisdictions will take less time, providing justice that is more effective for individuals and businesses alike.

However, not all disputes are covered by the Convention. E.g., family law matters, wills and succession, insolvency, intellectual property, passenger and cargo transportation, law enforcement activities, anti-trust (competition) matters, and transboundary marine pollution.

The Convention will not apply to commercial arbitration and related proceedings.
According to the general provisions of the Convention, a judgement may only be recognized if it has effect in the state of origin and may only be enforced if it is enforceable in the state of origin. Recognition or enforcement may be postponed or denied, if the judgement, for instance, is subject to review in the state of origin.

The Convention also sets forth the reasons for denying recognition and/or enforcement of foreign judgements. For example, failure to notify the defendant in due time; if the judgement was obtained by fraud; if recognition and/or enforcement would be manifestly incompatible with the public policy of the requested state; if the court proceedings in the country of origin were contrary to an agreement, under which the dispute in question was to be determined in a court of the requesting state; etc.

Laws of the requested state will govern the procedure for recognition, declaration of enforceability, registration for enforcement, and enforcement of the judgement, unless the Convention provides otherwise. In other words, Russian procedural law will govern the enforcement of foreign judgements in Russia when Russia signs and adopts the Convention.

Article 18 enables each signatory state to forfeit provisions of the Convention in a specific matter, where such state has a strong interest not to apply them. However, the forfeiting state may not abuse this right and should ensure that the specific matter is clearly and precisely defined.

Our Dispute Resolution Group will be glad to advise you on the recognition and enforcement of foreign judgements in Russia; we will keep you posted on the last changes of the status of the Convention.

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