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**PROCEDURE OF
ENFORCEMENT OF FOREIGN
ARBITRAL AWARDS IN
ALBANIA**

Chapter IX, Title III of the Second Part of the Albanian Civil Procedure Code, Articles 393 to 399, contains the provisions relating to the recognition and enforcement of foreign judgements. These are also applicable to international arbitration awards.

Under Article 394 of the Albanian Civil Procedure Code, foreign judgements are not recognized and enforced in the Republic of Albania, if:

- i. according to Albanian law, the foreign court was not competent for the matter; or*
- ii. the claim and the claim notice has not been properly and timely notified to the defaulting defendant, to allow it to organize its defence; or*
- iii. the Albanian courts have already issued a diverging decision between the same parties in relation to the same matter and scope;*
- iv. a claim is pending before Albanian courts and has been filed prior to the date on which the foreign judgement became final; or*
- v. the foreign judgement became final contrary to the law of the jurisdiction in which it has been taken; or*
- vi. the foreign judgement is contrary to the fundamental principles of the Albanian legislation (i.e., public policy).*

Pursuant to Article 399 of the Albanian Civil

Procedure Code, the provisions of Article 394 of the Albanian Civil Procedure Code shall apply mutatis mutandis to international arbitration awards.

The Albanian Civil Procedure Code further provides that if specific agreements exist between the Republic of Albania and foreign countries, then the terms of the international agreement shall apply regarding the recognition and enforcement of judgements of that country.

As a matter of fact, under Article 122 of the Albanian Constitution, any international agreement ratified by law becomes part of the domestic legislation upon its publication on the Official Gazette of the Republic of Albania. Article 122 of the Albanian Constitution further provides that in case of conflicts between the provisions of the domestic laws and those of ratified international agreements, the provisions of the latter shall prevail.

As the Republic of Albania ratified the 1958's New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, self-executing provisions of the New York Convention are part of the domestic legislation in Albania. Moreover, in compliance with the Albanian Constitution and the Albanian Civil Procedure Code, provisions of the New York Convention shall prevail in case of conflict.

Under the New York Convention, Albania has undertaken to accomplish the following obligations:



- recognize and enforce foreign arbitral awards and recognize agreements to submit disputes to international arbitration.

As mentioned above, Article 399 of the Albanian Civil Procedure Code provides that the procedure for recognition and enforcement of foreign judgments shall also apply for the recognition and enforcement of international arbitration awards.

Foreign arbitral awards can be enforced in Albania provided that they are “recognised” in Albania pursuant to the provisions of the Albanian Civil Procedure Code. According to the Albanian Civil Procedure Code, recognition of a foreign arbitral award is granted by the competent court of appeal upon request of the interested party. Once recognised, foreign arbitral awards have the same effects as domestic judgements. The procedure for recognition of an international arbitral award is initiated by submitting a lawsuit in front of the competent court of appeal. Even though formally such proceedings are considered of a declarative nature (gracious process), the court of appeal shall demand that the other party (the aggrieved party) be duly summoned to attend the hearings. According to Article 396 of the Albanian Civil Procedure Code, the request for recognition of an international arbitration award filed with the competent court of appeal should be accompanied by the following documents:

- I. a certified and legalised copy of the arbitration award duly translated into the Albanian language;*
- II. copy of a certification/statement issued from the arbitral institution that has issued the award, that the award is final;*

III. power of attorney, if the application is filed by a representative of the interested party.

The Albanian Civil Procedure Code does not require the submission of the arbitration agreement as a condition to the recognition of the foreign award in Albania. Such provisions depart from the provisions of Article 4 of the New York Convention, which requires that the application for enforcement of an award should be accompanied by the arbitration agreement.

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