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## INTERVIEW

### **New York Convention Considerations for its revision**

#### **What is your experience with domestic and international arbitration?**

I have participated in International Arbitration proceedings as counsellor for Albanian law cases, issuing expert reports on such matters.

I have also assisted clients in the process of recognition and enforcement of foreign arbitration awards in Albania.

#### **Many scholars ask for the revision of the New York Convention. What are your thoughts about this?**

The interpretation of the grounds for refusing enforcement by the local courts has been often criticized, especially that of the "public policy" as ground for refusal, because of the difficulty to define such public policy.

Concerns have been raised about the wording of some articles of the Convention, such as the Article V/1. There are opinions that the word "may" in the first paragraph bestows on the local courts the discretion to recognize or not the award, notwithstanding that one of the conditions provided in this article is proven.

In my view, there is a certain ambiguity also as far as the phrase "duly authenticated original award" of Article IV(1)(a) is concerned, which may lead to confusion.

In practice, most parties submit either the original award or a certified copy of the award, thus the real purpose of the wording "duly authenticated original award" is not clear. That raises a question as to whether it is required to further authenticate an original award and if so, which is the authority that can duly authenticate an original award?

What about an *ad hoc* arbitration award?

The revision and clarification of said provision would not leave room for interpretation and would facilitate the enforcement process in practical terms.

However, the revision of the New York Convention is not an easy process considering that it is a binding convention for 168 states and on grounds that serious flaws were found in the enforcement process.

**Recognition and enforcement of the foreign arbitration award is considered the final phase of international arbitration. How do you see the process of recognition of foreign arbitration awards in the Albanian courts? Would you describe this as a “smooth” process, or you would recommend improvements in the Albanian legislation?**

From my personal professional experience, I would generally describe the process of recognition of foreign arbitration awards in Albania as a “smooth” one. However, improvements to the New York Convention (which prevails over the domestic law) as explained in point 2 above, would further facilitate such process.

**Do you think that we need more well trained arbitration specialists in Albania?**

Yes. In my view, well-trained arbitration specialists with a solid arbitration knowhow and expertise would improve and further develop the arbitration culture in Albania.

**In your opinion, what makes a good arbitration lawyer?**

To my mind, good litigation skills are laid down on the basis of a good arbitration lawyer. Certainly, having good knowledge of the arbitration rules and of the business law constitute strong foundations for a good arbitration lawyer.

**What do you see as the key areas of change or development in arbitration?**

- i. Albania is missing a domestic arbitration law for too many years now, ever since the relevant provisions of the Albanian Civil Procedure Code were repealed. The adoption of the domestic law “On Arbitration” would help with the development of the arbitration culture among Albanian business entities and encourage the actors to resolve the disputes through arbitration.
- ii. Awareness raising among Albanian business environment and promotion of arbitration as an alternative dispute resolution, especially in commercial relationships would definitely develop and increase the preference towards arbitration *vis a’ vis* court dispute resolution
- iii. Training activities with arbitrators and lawyers would help to spread the arbitration culture, expand the knowledge and expertise of law professionals and thus increase promotion of arbitration as alternative dispute resolution.

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