

The New York Convention

Enforcement and Stay of Court Proceedings in Israel

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International Arbitration in Israel

- ▶ A short General View on Arbitration concept in Israel

The “Golden Rule”; Respecting N.Y Convention

- ▶ Israel Arbitration Law adopted international Conventions on Recognition and Enforcement as well as Stay of Courts Proceedings including and particularly the N.Y York Convention.
- ▶ Israeli Courts respect the N.Y Convention provisions as well;
 - ▶ But: “Never say Never”

The “Golden Rule” Implementation (1)

- ▶ Article 5 of the N.Y Convention includes a limited list of causes which shall not be expanded (Case no. 3280/03 and others);
- ▶ The burden of proving any of Article 5 causes lies on the petitioner shoulders and is pretty heavy;
- ▶ An allegation that the time for commencing the arbitration proceedings had past, based on arbitration clause Interpretation, was dismissed: In this case the pre arbitration proceedings meant to be negotiation - the counter party silent regarding the petitioner request for initiating negotiation had not turned on the 60 days running clock for opening arbitration proceedings pursuant the N.Y Convention implementation policy and the request to resist its enforcement for acting with no authority was dismissed(Case no. 3280/03)
- ▶ Recognition and Enforcement proceedings of the N.Y Convention are not proceedings such as appeal or De Novo proceedings, but highly limited to the convention instructions;

The “Golden Rule” Implementation (2)

- ▶ Enforcement proceedings do not include an award corrections proceedings as such proceedings are not included in the N.Y Convention (Case no. 6248/07, Published 3.3.08);
- ▶ The Israeli Supreme Court has also stated that the time limit for filing a request to resist a request for Recognition and Enforcement pursuant the N.Y Convention- 15 days since the Enforcement request had been filed (case no. 4320/11, Published 15.2.12)).

“Outstanding Cases”; The Public Welfare Interest case

- ▶ In extreme cases the Israeli Supreme Court may stay Courts’ Proceedings for Public Welfare reasons (Case no. 1817/08)

Would Non approved foreign arbitral awards may be filed as Evidence in other arbitration?

- ▶ In outstanding cases where there is no possibility for objective reasons to approve foreign arbitral awards pursuant the N.Y Convention, they still could be filed as evidence in other arbitration concerning the same or similar parties.

The N.Y Convention and Israel

Thank you!

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