



Enforcing arbitration awards in Belarus

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International Arbitration Court at the Belarusian Chamber of Commerce and Industry (IAC at the BelCCI)

<http://www.ica.by>

www.cci.by



- Judgment of Economic Court of the Commonwealth of Independent States in *Stans Energy v Kyrgyzstan*, September 23, 2014
 - nominee in *Most important published decision of 2014 for jurisprudential or other reasons:*

Minsk-based court sided with Kyrgyzstan over interpretation of Moscow Convention for the Protection of Investors' Rights, preventing a potential flood of claims at so-called "pocket" arbitration courts



Opposing enforcement

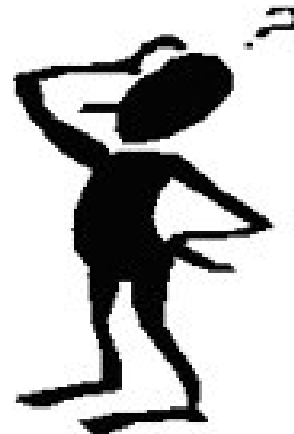
- New York Convention 1958
- Economic Procedure Code (1998)

Setting aside (“inner”) awards

- Law On International Arbitration Court (1999)
- Economic Procedure Code (1998)
- Law On Third-Party Courts (2011)
- Civil Procedure Code (1999)



“WE DO HEREBY AWARD THAT Buyers shall pay to Sellers forthwith the sum of US\$521,884.33 (five hundred...) together with compound interest thereon at the rate of 5% (five per cent) per annum with quarterly rests from 23rd March 2000 on US\$163,648.51 and from 3rd April 2000 on US\$358,235.82 to the date of payment of this award and the cost of the arbitration.”





2005
(GAFTA)

“What concerns the award [in the part] about interest, the size of interest is not determined in terms of money. Therefore in this part the award must be denied recognition and enforcement.”

Case No. 7-6Их/05

2014
(SCC)

“By determining the size of the per cents payable by OJSC “Minskvodstroy” on the date of making the decision about the recognition and enforcement of the arbitration award, the economic court has changed the provisions of the foreign arbitration award about paying this sum of money “before its payment in entirety.””

Case No. 9-9Их/2014/925К



Arbitration award

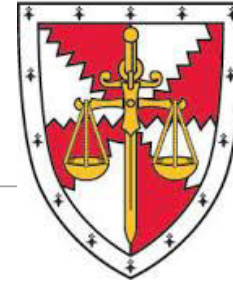
[...] penalty under Art.113(1) of Estonian Law of Obligations Act for the period from 1 May to 3 June 2012[...];

[...] interests on the sum of the unpaid loan from the date of rendering of the arbitration award [...] based on the per year rate of LIBOR with additional 2 per cents before its payment in entirety;

Supreme Court Decision

- penalty under Art.113(1) of Estonian Law of Obligations Act for the period from 1 May to 3 June 2012 ~~in the amount of \$4,577.41;~~

- interests on the sum of the unpaid loan from the date of rendering of the arbitration award [...] based on the per year rate of LIBOR with additional 2 per cents before its payment in entirety, ~~in the amount of \$34,453.044;~~



Guidelines for Arbitrators on how to approach the making of awards on interest

15.1. A typical award of interest might be drafted along the following general lines:

(1) I order and direct that the respondent shall forthwith pay to claimant the sum of [...] together with interest thereon calculated at the rate of 5% (five per cent) per annum compounded at monthly rests from (date) to the date of this award. (**Note: in some cases the arbitrator may find it convenient to quantify the sum awarded in respect of interest.**)

[...] from the date of the award until payment [...]



Germany	Slovak Rep.	Czech Rep.	Latvia	Hungary	Belarus
[Court] Order for Payment (Mahnverfahren)	[Court] Payment Order	[Court] Payment Order	[Court] Warning Procedure	Order for Payment by a <u>Notary Public</u>	<ol style="list-style-type: none"> 1. [Court] writ proceedings 2. Enforcement Inscription by a <u>Notary Public</u>



Enforcement Inscription by a Notary Public:

- ✓ Notary public (out of court)
- ✓ Enforcement document itself

- ✓ Quick (about 3 days) and cheap (max. approx. 90 Euro)
- ✓ Since August 2015 (Ukaz No. 366) possible for sales and other commonly used contracts

- ✓ Indisputable claim (acknowledgement in writing)
- ✓ Original documents (contract, annexes, CMRs etc.)



Enforcement inscription v an arbitration agreement

- + extra-judicial procedure
 - > parties agreed to settle a dispute by arbitration
- + only possible when the debtor acknowledges the debt
 - > parties agreed to settle a dispute by arbitration
- + can be declared not enforceable by court
 - > parties agreed to settle a dispute by arbitration



Thank you!

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