

Estonian Supreme Court confirms Estonia's arbitration-friendliness

In a decision rendered in June 2017, the Estonian Supreme Court once again took an arbitration-friendly approach. The court recognized an arbitral award from the Arbitration Institute of the Stockholm Chamber of Commerce even though the award did not comply with the New York Convention.

Under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, a duly authenticated original arbitral award or a duly certified copy thereof should be presented to the court, in order for the arbitral award to be recognized and declared enforceable. In the case at hand, the applicant had presented a copy certified by the Stockholm Chamber of Commerce's (SCC) legal counsel.

The Supreme Court of Estonia found that a copy certified by SCC's legal counsel may not be seen as equal to a "duly certified copy" under the New York Convention. However, to recognize and declare a foreign arbitral award enforceable in Estonia, it is sufficient if the form of the award meets the requirements of Estonian rules on procedure. Thus, even though there was a formal discrepancy with the requirements in New York Convention, this discrepancy had no effect on the recognition and enforcement of the arbitral award, especially as the affected party did not dispute the existence of the award.

Furthermore, the SCC had awarded a party statutory interests according to the Swedish Interest Act. The affected party argued that a general reference to foreign law contradicted the formality principle that applies in Estonia to the enforcement proceedings carried out by a bailiff. The Supreme Court, however, did not agree to this view. The Supreme Court explained that even if the interest rate is set forth in foreign law, enforcement of default interests against the affected party is a question of technical, mathematical nature.

For the sake of efficiency of enforcement proceedings, and to protect legitimate interests of a debtor, the claimant should indicate the amount of interests accrued as of the date of commencing the enforcement, together with detailed calculation and the text of the foreign law. From there on, further interests are to be calculated by a bailiff.

The recent Supreme Court decisions clearly indicates that the courts of Estonia will not let a losing party escape their obligations under a foreign arbitral award.'