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Report on the survey relating to the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)

Note by the Secretariat*

Contents

	<i>Paragraphs</i>	<i>Page</i>
IV. Requirements and procedures for enforcing an award under the New York Convention	1-32	2
1. Competence of the national courts and other authorities concerning recognition and enforcement of Convention awards	1-5	2
2. Court proceedings	6-32	2
a. Time limit for applying for recognition and enforcement of a Convention award	6-10	2
b. Procedures and requirements applicable to a request for enforcement of a Convention award	11-16	3
c. Objections to request for enforcement	17-24	5
d. Appeal against granting, or refusal to grant, enforcement	25-32	6
V. Recommendations and conclusions	33-45	7
Annex		
Time limit for applying for recognition and enforcement of a Convention award		11

* The submission of this document was delayed because of the need to undertake consultations.



IV. Requirements and procedures for enforcing an award under the New York Convention

1. Competence of the national courts and other authorities concerning recognition and enforcement of Convention awards

1. The responses to the question as to what court or authority would be competent to decide on a request for recognition and enforcement showed that there was a great variety in the manner in which legislators had regulated this matter. The determination of the competent court or authority might be regulated in the code of civil procedure, the legislation on private international law, a specialized act on the judiciary or on enforcement, the act implementing the Convention or the arbitration legislation.

2. Only exceptionally, a specific authority had been designated as competent such as an arbitral institution, the Office of the Ombudsman, the Office of Economic Dispute Resolution or Commissioner of the Law. In the wide majority of instances, a court was the competent authority. The courts to which an application might be brought in the first and sometimes only instance ranged from a municipal or district first instance court to the Supreme Court.

3. Three criteria were frequently mentioned as factors governing the territorial competence of the courts, namely, the court at the domicile or residence of the respondent, the court at the place of business of the respondent or the court where the award had to be enforced (or the court at the place where the assets against which the award would be executed were located). In some cases, the applicant was free to choose one of these venues. In other cases, a default rule was applied. Other alternatives included the court chosen by the parties in their arbitration agreement. One State mentioned that “in cases of enforcement of real estate and movable properties, the competent court is the court where the goods are located, while in the cases of enforcement of monetary claims, the competent court is the one of debtor’s permanent residence or seat”.

4. In some cases, the competent court was reported to be the court having jurisdiction over the subject matter covered by the award or the court that would have been competent to deal with the case if it had not been the subject of arbitration. It was pointed out in one response that where the State was a party to the arbitration, the competent court was the Supreme Court, instead of the District Court.

5. In States with a federal system, competence might exist at both the federal level and at the State, provincial or territorial level depending on the subject matter of the award, i.e., whether or not it was a federal question. In one federal system, enforcement proceedings might be brought either in state or federal courts and might subsequently be removed from the state court to the federal court.

2. Court Proceedings

a. Time limits for applying for recognition and enforcement of a Convention award

6. The Convention did not prescribe a time limit for applying for recognition and enforcement of awards, following the provision in article III that recognition and enforcement should be in accordance with the rules of procedure of the territory

where the award was relied upon. Responding States were requested to comment on whether or not there was a limited time period for applying for recognition and enforcement of Convention awards and, if so, what that time period would be. A table containing the responses given to that question by each State is attached hereto as an annex.

7. The regulation of the time limit for applying for recognition and enforcement of awards was reported to be found in a variety of sources, such as the legislation implementing the Convention, the arbitration act, the code of civil procedure, the civil or commercial code, the courts act and the limitation act or its equivalent. The time limit might be specifically provided for application for recognition or enforcement of a Convention award, or it might be a general rule applying to any court proceedings.

8. A significant number of States responded that there was no time limit for applying for recognition and enforcement of a Convention award. Others distinguished between application for recognition and for enforcement, and indicated that there was no time limit for applying for recognition of a Convention award, but that enforcement was subject to a time limit. Where a specific time limit was indicated for application for enforcement, the periods ranged from three months to thirty years. The most frequently reported periods were three, six and ten years. In one case, the time limit was expressed in terms of the period before which the application for enforcement could not be made, namely, the expiration of the period for setting aside the award. One State mentioned that enforcement of the award could still be requested after the running of the time period with leave of the court. The date from which the limitation period would run was described as the date of the issuance of the award or the date on which the award became enforceable or came into lawful effect. Other responses referred to the date when the claim fell due or as commencing from the date on which the failure to comply with the award first occurred.

9. While most responses indicated that the time limit for enforcement applied irrespective of the type of claim, there were some exceptions. In one instance, it was noted that the general limitation applied by analogy to a claim confirmed by a court decision even if the claim itself was subject to a shorter time limitation. One response showed that a specific time limit applied in respect of credits which had not matured. It was indicated in a few responses that different time limits applied depending on whether the claimant was a natural or legal person or whether the arbitration agreement was "under seal". Several responses also indicated that the time limit would depend on the applicable law.

10. The Commission may wish to consider whether it would be desirable to provide assistance aimed at achieving a higher degree of uniformity among the Contracting States in respect of time limits for applying for the recognition and enforcement of Convention awards.

b. Procedures and requirements applicable to a request for enforcement of a Convention award

11. States were invited to describe the procedures or requirements applicable to a request for enforcement of a Convention award. States were also requested to

provide information on whether the procedure applicable to enforcement was detailed by any legislative provisions, rules of courts, or regulations.

12. A number of responses stated that the procedures and requirements applicable to a request for enforcement of a Convention award were those contained in articles IV and V of the Convention and that no other requirements were set. Several responses reported that the provisions of the Convention had priority or that, lacking express regulation in the domestic legislation, the provisions of the Convention applied exclusively. It was noted, in one response, that the general domestic procedural rules applicable to the enforcement of foreign awards did not conflict with the Convention and were meant to give general guidance to the applicants and the court on the procedure. Another response indicated that the applicant may choose to enforce the award under the Convention regime or the domestic regime.

13. A number of responses indicated that for procedural matters not covered by the Convention, the general provisions for enforcement of foreign court judgments applied either expressly or by analogy. Several responses referred to other enforcement treaties. For example, in one case, it was reported that when the subject matter of the award was covered by the 1968 Brussels Convention on the Recognition of Foreign Judgments, the enforcement of the award was subject to the same proceedings and conditions as these judgments.¹

14. Some responses indicated that an application for enforcement should comply with a number of requirements, not contemplated by the Convention. Several States mentioned that the requesting party should submit evidence that the award had become final or that the court of the State where the award was made had confirmed that it “was operative and was not subject to any appeal” or, in another case, “enforceable” in the country where it was made. Another response indicated that an application had to contain a declaration that the award “does not disqualify for enforcement”. It might be questioned whether some of those requirements might result in negating the major achievements of the Convention on the elimination of double *exequatur*.

15. Several responses indicated that the party applying for enforcement had to show that the party against whom the award was made had been duly notified of the arbitral proceedings, declared to be in default in accordance with the law of the place where the award was made and duly notified of the award. In some cases, the applicant had to certify the amount remaining due on the award or to indicate the extent to which the award was to be enforced.

16. In one response, it was reported that the application should contain an indication of each written extension of time granted during the arbitral proceedings before the award was made. It was indicated in one response that the competent court reserved the right to request additional information and yet another State reported that the “minutes of the sessions” of the arbitral proceedings had also to be submitted. In one case, a certificate attesting that the parties had not objected to the composition of the arbitral tribunal was required if this was not expressly mentioned in the award. It was indicated in several responses that the requirement applicable in

¹ The 1968 Brussels Convention on the Recognition of Foreign Judgments was the applicable text at the time the reply was sent by that State.

the context of domestic arbitration cases to register the award with the court extended also to foreign awards.

c. Objections to request for enforcement

17. The Questionnaire contained a number of questions on the three basic procedural stages in the judicial enforcement of a foreign arbitral award: objections to the request for enforcement, appeal against the refusal to grant enforcement and appeal against enforcement of a Convention award. The Convention gave limited but essential guidance on these steps, the most important being the exclusive grounds for refusal of recognition and enforcement found in article V.

18. The responses indicated that, in general, the enforcement procedure was set out in the code of civil procedure or similar law relating to foreign judgments and awards, and that it was more rarely defined in the legislation implementing the Convention.

19. The proceedings for enforcement were reported to be either *ex parte* summary proceedings in which the opposing party would not be heard or contradictory proceedings in which the opposing party could immediately invoke the grounds for refusal of enforcement enumerated in article V of the Convention or in the applicable domestic legislation. Several responses indicated that the court was subject to a time limit for hearing the opposite party (ten days) or for rendering its decision (thirty days from the date of the final hearing). One State reported that the applicant had to disclose any objection to enforcement of which he was aware. In one case, enforcement could be simply granted by an endorsement of the award without giving reasons. Another State reported that if the enforcement could not be decided on the basis of the documentation and information available in the simplified procedure, the matter might be referred to an ordinary legal action.

20. A number of responses contained information on the grounds upon which a court might refuse to grant enforcement of a Convention award, the texts of which deviated, in some cases, from article V of the Convention. For instance, the following grounds for refusing enforcement were reported: the arbitrator misconducted the proceedings, the award was improperly made, the award was made by persons not qualified to be arbitrators or the arbitral tribunal was composed of a “wrong” number of arbitrators. One State reported that its civil code of procedure contained conditions for enforcement of awards and it was not clear whether the conditions contained in both texts were cumulative or whether the Convention was the only applicable regime for the enforcement of foreign arbitral awards. In one case, it was mentioned that the grounds for setting aside might also be invoked to object to enforcement, but the prevailing position was not to apply them if they would contravene the Convention.

21. One State reported that, in addition to the grounds for refusing enforcement of a Convention award as contained in article V (2) of the Convention, its arbitration act provided that the court might refuse enforcement if it found that the “making of the award was induced or affected by fraud, corruption or misrepresentation”. It was reported in a reply that in order for the award to be enforced, it should be shown that the claim that was the subject of the award did not belong to the exclusive jurisdiction of the courts and that there was not an ongoing case or a final decision of the courts susceptible of having *res judicata* effect over the foreign award.

22. One State replied that, in addition to the provisions of the Convention, its Foreign Arbitration Act denied recognition if (i) the excess of authority caused the award to be ineffective in the State where it was rendered or under the law of which it was made; and (ii) the objecting party proved that by reason of the improper composition of the arbitral tribunal or the improper arbitral procedure, the award was ineffective in the country where it was made or under the law of which it was made.

23. Other States reported that the grounds for refusal of enforcement were more limited in the Arbitration Law than in the Convention. One State reported that the conditions to obtain enforcement were limited to the existence of an arbitral award, which should not be contrary to international public policy. One State mentioned that its legislation “contained only the following three grounds for refusal of enforcement: (a) That it did not contradict a judgment previously rendered by the State Courts on the subject matter in dispute; (b) That it did not violate the public policy in that State; and (c) That it was properly notified to the party against whom it was rendered”.

24. A number of responses repeated the principle that there could be no substantive review of the merits of the award in the enforcement proceedings.

d. Appeal against granting, or refusal to grant, enforcement

25. In many cases, it was reported that enforcement was to be requested at the first instance court and the refusal or granting thereof could be appealed to the court of appeal, and then to the Supreme Court or Constitutional Court. In several cases, mention was also made of the case being returned by the court of appeal to the lower instance that made the appealed decision, or that appeal was only allowed if an application for a retrial was excluded.

26. Where enforcement could be granted in summary proceedings, the party against whom the award was enforced could appeal, either to the same court or a higher instance, to set aside the enforcement order, usually within a short deadline of five to fourteen days.

27. In a number of cases, enforcement was to be sought immediately from the Supreme Court or higher judicial instance, allowing for only one instance and no further appeal.

28. The time limits for lodging appeals were relatively short, ranging from five days to one month. In one case, the Supreme Court was required to give its decision within ninety days.

29. A number of responses reported that leave to appeal had to be obtained, either from the first instance court or the court of appeal itself, in order to lodge an appeal. In one case, for leave to appeal to be granted, the court must be satisfied that substantial injustice would result if the decision of the lower court was confirmed. In another instance, appeal must be based on a legal error in the appealed decision. The grounds for appeal to the Supreme Court or Constitutional Court were in some cases limited, for example, to a serious abuse of discretion, an act outside the jurisdiction of the arbitrator, a violation of a Constitutional provision, a complaint on a point of law, a general legal issue, or the absence of any other legal remedy.

Appeal to the Supreme Court might also only be admitted if the value of the claim was above a certain amount.

30. Several pro-enforcement mechanisms were noted. A number of responses indicated that there was no appeal against a decision granting enforcement. Appeal was only available against a decision refusing enforcement. Further research indicated that in one State, if the lower court – whose decision was final and subject to no appeal – intended to refuse enforcement of a Convention award, it had first to allow its draft decision to be reviewed by the higher level court and ultimately by the Supreme Court, and then to follow suggestion of these Courts on the decision.

31. The Questionnaire also invited States to provide information on whether the lodging of an appeal or other recourses automatically suspended the enforcement of the award or whether it could, upon request, be ordered by the court. In several cases, it was noted that the enforcement of the award was suspended for the period during which the party against whom the award was to be enforced might apply to set aside the enforcement order as well as during the ensuing proceedings until their final disposal. In general, the majority of the responses indicated that suspension could be requested by the parties and granted by the court, but did not operate automatically.

32. The responses reflected the variety of enforcement procedures and their legal sources. They also showed that the restrictions established in the Convention on the enforcement procedure not to impose conditions significantly more onerous than for domestic awards or introduce new grounds for refusal had not been closely adhered to in some cases. Changes might have been introduced by the legislator in the implementing act or conversely by the failure to prescribe a specialized procedure for the enforcement of Convention awards, allowing, for example, the procedure for enforcement of domestic awards or foreign judgments to apply. The survey also showed that legislation relating to the various aspects of recognition and enforcement of foreign arbitral awards was found in various pieces of legislation. Practitioners would have to conduct extensive research in order to gain complete and accurate information about the requirements and procedure for application of the Convention. The Commission may wish to consider whether assistance should be provided to unify procedures in line with the conditions set out in the Convention.

V. Recommendations and conclusions

33. The responses to the Questionnaire regarding how the Convention had been implemented reflected the diversity of the world's legal systems. The application of domestic rules of procedures to matters on which the New York Convention was silent had given rise to diverging solutions to questions such as the requirements applicable to a request for enforcement, fees, levies, taxes or duties to be paid in connection with such an application, correction of defects in the applications, the time period for applying for recognition and enforcement, and the procedures and competent courts for recourse against a decision refusing to enforce an arbitral award. Various implementing acts have provisions on many more aspects of the enforcement procedure. The recommendations and conclusions below are limited to issues addressed in the responses to the Questionnaire. It should be noted as well that certain States had adopted a more liberal approach to the recognition and

enforcement of foreign arbitral awards, as compared to the conditions set forth by the New York Convention, and therefore, additional study on the application by States of article VII of the New York Convention would be necessary to complement that survey.

34. The Commission may wish to consider whether the secretariat should study the feasibility of preparing a guide for the legislative implementation of the Convention to limit the risk that State practice would diverge from the spirit of the New York Convention. That guide might need to contain information on the interpretation of the Convention and aim at assisting States in implementing the Convention, in particular in certain identified areas of uncertainties, as further underlined below.

Method of incorporation

35. On the first question of incorporation of the New York Convention into national legal systems, the survey showed in a few instances, discrepancies in particular between the obligations incurred by a State at the international level upon ratification of the Convention, and the legal effect given to those obligations in the internal legal order. Very few States, despite having ratified the Convention, did not adopt the required domestic legislation, which resulted, as reported by States, in the Convention not being applied by local courts. For States that have enacted legislation paraphrasing the New York Convention, the discrepancies between the texts might be a source of potential obstacles to achieving uniformity in interpretation and application of the New York Convention. In a number of cases where the Convention has been implemented in the same act as legislation on arbitration, it may not be immediately apparent which provisions in the act are intended to apply the Convention. Such legislation may need to clarify which provisions were considered to be Convention provisions and which had been substituted by the arbitration legislation. As well, for those State which had provided for a translation of the Convention, it might be useful to determine which version prevailed in case of conflict. States reported dates of coming into effect of the Convention in their internal legal order which differed from the date of coming into effect at the international level and further work might need to be done in relation to that question.

Reservations

36. As reported by some States, the reservations were not necessarily reflected in legislation or elsewhere. States mentioned that courts would nevertheless refer to such reservations, without indicating on what basis courts would do so. This had a potentially negative impact upon the harmonizing effect of the New York Convention. If Contracting States choose to make reservations, such reservations should be properly notified when depositing the instrument of accession with the Secretary-General of the United Nations and repeated in the legislation. Any subsequent declaration regarding a reservation or the withdrawal thereof should also be reflected.

37. The survey did not allow for gathering additional information on the manner in which the reciprocity reservation was applied in practice (for example, how a "Contracting State" was identified). Certain States, with common law tradition, mentioned that the inclusion of a given State in an official list was conclusive of the

fact that such a State should be taken to be a “Contracting State”, without clarifying whether such lists were exclusive or further explaining how, in practice, reciprocity should be proven to the satisfaction of the courts of the State concerned. As an increasing number of States adhered to the Convention, the impact of the reciprocity reservation lessened. In that context, it might be recommended that States follow the broad language of the opening words of article I, paragraph 1, of the Convention, which were also expressed in the UNCITRAL Model Law on Arbitration and allowed for recognition and enforcement of arbitral awards irrespective of where they were made.

38. Concerning the commercial reservation, the survey made it clear that discrepancies in implementation concerning the commercial reservation might come from the fact that no harmonized definition of the term “commercial” was provided.

39. The questionnaire did not ask States whether other reservations not included in the New York Convention had nevertheless been applied by States. For example, in some cases, either by express legislation or practical application, issues such as the nationality of the parties, the place of arbitration, the location of one of the parties might affect the manner in which the New York Convention is applied.

Application of article III of the Convention

40. The responses to the Questionnaire generally confirmed that, except in very few instances, Contracting States had not imposed higher fees or charges for the recognition or enforcement of Convention awards compared to domestic awards.

Application of article IV of the Convention

41. The responses to the questionnaire showed that the requirement at the time of the application to supply the duly authenticated original award or a duly certified copy thereof and the original agreement referred to in article II or a duly certified copy thereof, gave rise to numerous interpretations and suggestions as to the law to be applied to satisfying these requirements. A significant number of responses indicated directly or indirectly that the requirements were not applied strictly. The Commission may wish to consider whether assistance should be provided to avoid uncertainty resulting from such disparity.

42. It may be noted that the phrase “at the time of the application” appeared no longer to be an obstacle in practice and there was a general trend in favour of granting parties the opportunity to correct defects in the application.

Competence of national courts

43. Variants were described in the responses regarding the competent court to decide on recognition and enforcement of foreign arbitral awards. A choice among multiple forums, such as the domicile or residence of the defendant or the place where the assets were located, might make the process more efficient, whereas a single centralized forum might concentrate expertise in the application of the Convention. All of these variants appeared to be equally advantageous. It may be noted that a number of States reported having adopted a pro-enforcement rule allowing appeal of a decision refusing enforcement of the award, but not appeal of the decision enforcing the award.

Time limit for applying for the enforcement of a Convention award

44. The Commission may wish to consider whether it would be desirable to provide assistance aimed at achieving a higher degree of uniformity among the Contracting States in respect of time limits for applying for the enforcement of Convention awards. The responses to the questionnaire showed that many States did not establish a time limit for applying for recognition and enforcement of a Convention award. It may be acceptable that no time limit be provided, or if a time limit has to be defined, it should be long enough to take into account the possibility that after prolonged unsuccessful enforcement proceedings, a party may have to seek enforcement in an alternative forum. A question, not addressed in the Questionnaire, is whether implementing legislation provided for a time limit for invoking an arbitration agreement. Further research indicated that a number of legislation implementing the Convention included limits, following the model proposed in the UNCITRAL Model Law on Arbitration under its article 8.²

Enforcement procedures

45. The responses reflected the variety of procedures for opposition to enforcement, appeal against the refusal to grant enforcement or the granting of enforcement. The range of procedures described in the responses lead, in some cases, to an easier enforcement procedure where Convention's requirements are mitigated and, in others, to a more burdensome procedure where stricter requirements are prescribed. Guidance in that respect might provide useful assistance to States. As to the important question whether State parties to the New York Convention have included additional requirements in their implementing legislation for the recognition and enforcement of arbitral awards that were not provided for in article V of the New York Convention, it may be noted that certain States reported having adopted additional grounds, or that there were uncertainties as to whether the grounds for refusing enforcement of domestic arbitral awards would also apply to the enforcement of foreign arbitral awards.

² Article 8 of the UNCITRAL Model Law on Arbitration, titled "Arbitration agreement and substantive claim before court" provides as follows:

"(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed."

Annex

Time limit for applying for recognition and enforcement of a Convention award

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Albania	The time period for applying for recognition and enforcement is defined according to the type of claim which is the subject matter of the award.
Algeria	No specific time limit.
Argentina	In the absence of a specific statute of limitations, the general limitation period for contractual obligations of 10 years applies (Civil Code, art. 4023).
Armenia	The usual statute of limitations for civil cases is 3 years (RA Civil Code, Art. 332).
Australia	The limitation period running from the date on which the cause of action first accrued to the plaintiff or to a person through whom the plaintiff claims, is 12 years where the award is made under an arbitration agreement and the arbitration agreement is made by deed; and in any other case, 6 years.
Austria	30 years, regardless of the type of claim which is the subject matter of the award.
Bahrain	No time limit.
Barbados	The time limit to apply for recognition and enforcement of a Convention award is governed by the Limitation of Actions Act Cap 231 section 45: "No action may be brought upon any judgment after the expiration of six years from the date on which the judgment became enforceable". This period is the same for any award or Convention award and it is immaterial what type of claim is incorporated in the award. Section 56 of the Limitation of Actions Act Cap 231 states: "This Act applies to arbitrations as it applies to actions in the High Court".
Belarus	3 years for any foreign arbitral award (in general, one year for a domestic award).
Belgium	No time limit.
Bolivia	No time limit.
Botswana	No time limit.
Brazil	Following the general rule set forth in article 205 of the Brazilian Civil Code, a creditor is barred by the statute of limitations 10 years after either (i) the date of the award or (ii) the date of recognition by the Superior Court of Justice of the award. However, the statute of limitation period may be significantly reduced if the subject of the dispute is listed in

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Brazil	Following the general rule set forth in article 205 of the Brazilian Civil Code, a creditor is barred by the statute of limitations 10 years after either (i) the date of the award or (ii) the date of recognition by the Superior Court of Justice of the award. However, the statute of limitation period may be significantly reduced if the subject of the dispute is listed in article 206 of the Brazilian Civil Code.
Brunei Darussalam	No time limit.
Bulgaria	No specific time limit. The general limitation period will be applicable, e.g. 5 years as from the issuance of the award. The limitation term however shall not be applied by the court ex officio but only if so requested by the opposing party.
Cambodia	No specific time limit.
Canada	<p>Canada: Section 39 (1) of the Federal Court Rules provides that: “Except as expressly provided by any other Act, the Law relating to prescription and the limitation of actions in force in any province (...) applies to any proceedings in the Court in respect of any case of action arising in that province”.</p> <p>Ontario: Actions to enforce an arbitral award must be brought within 6 years of the time the cause of action arose, which would presumably be when the unsuccessful party refused to comply with the award. Actions on awards arising out of an arbitration agreement that are in Ontario law a “speciality” (a document under seal) may be brought for 20 years.</p> <p>Quebec: No time limit.</p> <p>New Brunswick: No time limit.</p> <p>Nova Scotia: No time limit.</p> <p>Prince Edward Island: The Statute of Limitations Act, R.S.P.E.I. Cap. S-7 sets out the time period in which an action may be brought. The Convention is not specifically mentioned but this type of action would be limited to 6 years.</p> <p>Newfoundland and Labrador: The Limitations Act S.N. 1995 c. L016 sets out the time period in which an action may be brought. The Convention is not specifically mentioned but the enforcement of foreign judgements, which include arbitral awards, is limited to 6 years.</p> <p>Yukon: As there have been no relevant cases in Yukon, there are no special procedural rules designed specifically for the enforcement of this Convention. Procedures would be those as established under the Rules of Court as modified to suit the action.</p> <p>Northwest Territories: As there have been no relevant cases in</p>

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Chile	No time limit.
China	If one party to the award is a natural person, the period is 1 year; otherwise, the period is 6 months.
Colombia	The judge can specify a period.
Costa Rica	The Code of Civil Procedures does not have a time limit to seek the recognition of any type of award. However, any status of limitation eventually affecting the rights recognized on the award shall or could be raised by the defendant at the enforcement stage. The enforcement takes place after recognition is granted, in a Civil Court and following different procedures and provisions.
Croatia	No time limit.
Cuba	No specific time limit. However, Law No. 59, Civil Code of 16 July 1987, in its chapter II, Terms of Prescription, establishes in its article 116.b a limitation period of one year for actions derived from a court decision (article 120.2 of the Civil Code).
Cyprus	Normal limitation rules apply.
Czech Republic	No time limit.
Denmark	Enforcement of an arbitral award may be precluded due to limitation. As for the choice of the national law to apply when determining if an arbitral award has possibly lapsed, reference is made to section 12 (1) in the Executive Order No. 117 of 7 March 1973 (essentially, the private international law principles apply). If this provision results in the application of Danish law in regard to the limitation issue, the arbitral award will lapse after 20 years, unless the limitation has been interrupted before.
Dominica	No time limit.
Ecuador	The judge can specify a time period.
Egypt	In accordance with article (58)-1 of the Egyptian Arbitration Law: "The application for enforcing an arbitral award shall be accepted after expiration of the time period for setting aside."
Estonia	Article 157 (1) of the General Part of the Civil Code Act stipulates that the limitation period for a claim recognized by a court judgment in force or arising out of an agreement approved by a court or from another execution document shall be 30 years. The limitation period shall commence as of the entry into force of the court judgment or issue of the execution document but not before the claim falls due.
Finland	No specific time limit.
France	No specific time limit.

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Georgia	No specific time limit. However, the Supreme Court may apply the analogy of law and refer to article 142.1 of the Civil Code, which provides that “the period of limitation on a claim confirmed by a court decision that has entered into legal force is 10 years, even if the claim itself is subject to a lesser limitation”. This period of 10 years is the same for any court decision. If the Supreme Court applies the analogy of law, under the Law of Georgia on Enforcement Proceedings (article 34.1.e), enforcement process shall be terminated if the period of limitation of a claim confirmed by a court decision has expired.
Germany	No time limit.
Ghana	The Courts Act 1963 provides a limitation period of 6 years for foreign judgments. The Arbitration Act is however silent on the matter.
Greece	No specific time limit.
Guatemala	Article 48, section 1 of the Arbitration Law provides that in order to apply for the recognition and enforcement of an award, a one-month period shall have elapsed since the award has been rendered, and no nullity or annulment of the award has been sought. Then, the period depends on the type of claim incorporated in the award. The generally applicable statute of limitation period is of 5 years, but some obligations are subject to shorter periods.
Honduras	Neither the Arbitration Law nor the Civil Procedures Law establishes a time limit within which applying for recognition and enforcement of a Convention award. However, by analogy, the prescription periods established by the Code of Commerce are applied. The prescription periods in the Code of Commerce range from 6 months to 2 years depending on the nature of the claim.
Holy See	The Convention did not have normative developments in the Vatican City State and there are no precedents in the application of foreign arbitral awards.
Hungary	The period of prescription for the enforcement of a Convention award is the same as for the prescription of the claim incorporated in that award (section 57 of the act on judicial execution).
India	The award has to be filed in the Indian Courts within a period of 3 years and the limitation period does not depend on the type of claim.
Indonesia	The Arbitration Law does not impose any time limit for recognition and enforcement of international arbitral awards. However, there is a thirty-day limitation for registration of a

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Indonesia	The Arbitration Law does not impose any time limit for recognition and enforcement of international arbitral awards. However, there is a thirty-day limitation for registration of a domestic award only.
Iran (Islamic Republic of)	No time limit.
Ireland	Time limits for the enforcement of arbitral awards are contained in the Statute of Limitations, 1957, which provides: (a) that an action to enforce an award shall not be brought after the expiration of 6 years from the date on which the cause of action accrued, where the arbitration agreement is not under seal or where the arbitration is under any Act other than the Arbitration Act, 1954; and (b) that an action to enforce an award shall not be brought after the expiration of 12 years from the date on which the cause of action accrued, where the arbitration agreement is under seal.
Israel	Enforcement of awards, Convention or otherwise, is effected by means of “confirmation” procedure. There is no time limit for an application to the court for confirmation of an award.
Italy	No specific time limit.
Jamaica	There is no time prescribed for applying for recognition and enforcement of a Convention Award. However, a judgment of the Court may not be enforced after 6 years without leave of the Court and this rule would also apply to all Convention and domestic awards.
Japan	No time limit.
Jordan	It is only subject to the long time bar limitations, just as the court decisions.
Kazakhstan	A period of 3 years is provided by the Code of Civil Procedure of the Kazakh SSR for applying for recognition and enforcement of an award made by a foreign court. This period does not depend on the type of claim incorporated in the award.
Kenya	The Arbitration Act does not provide for a limitation period for the enforcement of any award. Section 4 (1) (c) of the Limitation of Actions Act [Cap 22 of the Laws of Kenya] provides for a time limit of 6 years within which to enforce an award.
Kuwait	There is no time limit under Kuwaiti law for applying for enforcement of a foreign arbitral award. The right of a party to request enforcement of an award would lapse upon expiry of a limitation period of 15 years.
Kyrgyzstan	There is a limited time period of three years pursuant to article 441 of the Code of Civil Procedure.

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Lao People's Democratic Republic	There is no specific regulation regarding this issue.
Latvia	Paragraph 2 of section 636 of the Civil Procedure Law provides that the time period for submission of application for recognition and enforcement of arbitral award is 3 years from the day of coming into lawful effect of the award unless another time period has been stipulated by international treaties. This time limit applies to any Convention award and it does not depend on the type of claim incorporated in the award.
Lebanon	No specific time limit. The general law on limitation applies.
Lithuania	Under the article 387 of the Code of Civil Procedure, the decision of the Appeal Court to recognize and enforce the Convention award has to be submitted for enforcement within 3 years from the date of the award. The period for applying for enforcement does not depend on the type of claim incorporated in the award or the type of award.
Luxembourg	No time limit.
Macedonia (former Yugoslav Republic of)	A party should apply prior to the expiry of a term of 10 years after the date of entering into legal force of the arbitral award.
Madagascar	The period of limitation is 5 years as provided by Malagasy texts in commercial matters.
Malaysia	Section 6 (1) (c) of the Limitation Act 1953 (Act 254) states that an action to enforce an award shall not be brought after the expiration of 6 years from the date on which the cause of action accrued. Section 30 (1) of the Limitation Act 1952 (Act 254) states that "This Act and any other written law relating to the limitation of actions shall apply to arbitrations as they apply to actions."
Malta	No time limit.
Mauritius	The Code Civil provides for different limitation periods depending on the nature of the course of action.
Mexico	No specific time limit. If the limitation period applicable to legal commercial proceedings for enforcement of judgments also applies to foreign awards, the relevant limitation period would be 10 years as from the date of the notification of the award to the parties.
Monaco	Article 477 of the Code of Civil Procedure enunciates the principle according to which "applications for enforcement of judgments and foreign instruments shall be submitted and judged in accordance with normal procedures." Article 972 of the Code

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Monaco	Article 477 of the Code of Civil Procedure enunciates the principle according to which “applications for enforcement of judgments and foreign instruments shall be submitted and judged in accordance with normal procedures.” Article 972 of the Code of Civil Procedure on the periods of limitation is applicable.
Mongolia	An applicant has to issue request for enforcement within 3 years after the date of the arbitral award.
Morocco	No time limit for foreign arbitral awards. A limitation period of 3 days from the date of the publication of the award applies to the recognition of domestic arbitral awards.
Mozambique	Under article 309 of the Mozambican Civil Code, the general statute of limitations for debts and related claims is 20 years. Nevertheless, shorter limitation periods (i.e., 5 years, 2 years and 6 months) may apply to specific types of claims (such as periodic allowances or rents, debts to restaurants and hotels for food and/or accommodation, debts to hospitals for medical care, debts to schools for teaching activities, debts to lawyers for legal services, debts to traders in general, etc). Pursuant to article 311 of the Civil Code, the 20-year limitation period applies to all claims incorporated in awards. The only exception to this rule arises when an award grants the winning party a credit not yet matured. In this case, the statute of limitations applicable to such credit is the one that would apply if same were not incorporated in an award.
Nepal	The time period is 90 days for Convention awards calculated from the date of award whereas it is altogether 75 days for domestic awards calculated from the date of the receipt of the copy of the award.
New Zealand	Arbitration Act 1996, First Schedule, article 34 (3) states that an application for setting aside an award may not be made after 3 months have elapsed from the date on which the party making the application had received the award, or if a request had been made under article 33, from that date on which that request had been disposed of by the arbitral tribunal. This does not apply to an application for setting aside on the ground that the award was induced or affected by fraud or corruption. This applies to all awards including those awards made under the Convention.
Nigeria	The period is 3 months from the date of the publication of the award irrespective of whether it is a Convention award or not and does not depend on the type of claim.
Norway	If an application for enforcement is not presented within 1 year after the right of enforcement became available, the application may not be entertained (Act relating to the Enforcement of Civil Claims s. 4-19). Otherwise, the Act relating to Limitation of

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Norway	If an application for enforcement is not presented within 1 year after the right of enforcement became available, the application may not be entertained (Act relating to the Enforcement of Civil Claims s. 4-19). Otherwise, the Act relating to Limitation of Monetary and other Claims of 18 May 1979 No. 18 s. 21 (2) provides that a claim which is affirmed in an arbitral award is statute barred 10 years after the date upon which the arbitral award was made, or the date upon which the creditor could have applied for enforcement. The period is the same for both Convention awards and other awards, and applies to all types of claims.
Oman	No specific time limit. The regulations of the Civil Code are applicable.
Paraguay	The duration of the limitation period applicable to the enforcement of awards is 10 years.
Peru	No specific time limit. However, the general duration of the limitation period is 10 years according to the Civil Code.
Philippines	Section 23 of Republic Act No. 876 provides that the application for confirmation of an award shall be made within 1 month after the award is rendered. There has not been any case law on this issue. On the other hand, if the award is confirmed by a foreign court and it is the judgment of the court confirming the award which is being enforced, Rule 39, section 6 of the Rules of Court provides that a final judgment may be executed on motion within 5 years from the date of its entry and by independent action within 10 years from such date.
Poland	No specific time limit.
Portugal	No specific time limit. Under article 309 of the Civil Code, the general statute of limitation for debts and related claims is 20 years. Nevertheless, shorter limitation periods (i.e., 5 years, 2 years and 6 months) may apply to specific types of claims (such as periodic allowances or rents, debts to restaurants and hotels for food and/or accommodation, debts to hospitals for medical care, debts to schools for teaching activities, debts to lawyers for legal services, debts to traders in general, etc). Pursuant to article 311 of the Civil Code, the 20-year limitation period applies to all claims incorporated in awards. The only exemption to this rule is when an award grants the winning party a credit not yet matured. In this case, the statute of limitations applicable to such credit is the one that would apply if same were not incorporated in an award.
Republic of Korea	No specific time limit. However, it is generally agreed that a 10-year time limit applies to the claim made final by a Convention award as well as by the domestic judicial decisions

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Republic of Korea	No specific time limit. However, it is generally agreed that a 10-year time limit applies to the claim made final by a Convention award as well as by the domestic judicial decisions according to article 165 of the Civil Code and article 14 of the Arbitration Act.
Romania	A foreign arbitral award can be enforced in Romania within the common statute of limitations, i.e., 3 years from the date the award became final and irrevocable, unless there is a shorter statute of limitation under the laws of the State where the award was rendered.
Russian Federation	<p>Under the Executive Procedure Act of 21 July 1997, court orders issued on the basis of international commercial arbitration or other arbitration tribunals may be submitted for enforcement within 6 months from the day the injunction comes into force or upon expiry of the time established for deferment of enforcement or partial enforcement, and in cases where the injunction is subject to immediate implementation from the day following its issue (article 14).</p> <p>The RSFSR Code of Civil Procedure (article 437) provides that foreign arbitral awards may be submitted for enforcement within 3 years from the date of entry into force of the award. This provision has not yet been formally revoked. Hence, in view of the fact that article 80, paragraph (2), of the Executive Procedure Act, which provides deadlines for submission of foreign court decisions for enforcement, makes no mention of foreign arbitral awards, it may be supposed that article 437 of the Code of Criminal Procedure will continue to be applicable to foreign arbitral awards.</p> <p>However, the above mentioned article 14 of the Executive Procedure Act, relating to deadlines for submission of injunctions for enforcement, may be considered applicable only in the case of international commercial arbitral awards made in the territory of the Russian Federation.</p>
San Marino	No time limit.
Saudi Arabia	No time limit.
Serbia	No time limit specific to enforcement of foreign award. Under the Law on contracts and torts, a claim incorporated in a court decision or an award is subject to a limitation period of 10 years from the date of enforceability of the decision or the award. In the event enforcement is requested at the time the limitation (prescription) period has expired, the debtor may raise the objection that the statutory limitation period has expired and the court will then refuse to decide and carry out the enforcement. It will not, however, refuse to recognize a foreign (Convention) award. A recognized award incorporating an obsolete claim will

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Serbia	No time limit specific to enforcement of foreign award. Under the Law on contracts and torts, a claim incorporated in a court decision or an award is subject to a limitation period of 10 years from the date of enforceability of the decision or the award. In the event enforcement is requested at the time the limitation (prescription) period has expired, the debtor may raise the objection that the statutory limitation period has expired and the court will then refuse to decide and carry out the enforcement. It will not, however, refuse to recognize a foreign (Convention) award. A recognized award incorporating an obsolete claim will produce the same effects as any other obligations in kind.
Singapore	Action to enforce an award must be lodged within 6 years after it was made [section 6 (1) (c) Limitation Act (Cap. 163)]. The period applies to both domestic and Convention Awards.
Slovakia	There is a time limit for applying for recognition and enforcement of the award of 10 years from the time when the award is final. It is a general rule included in the Civil Code.
Slovenia	No time limit.
South Africa	The Act itself does not specify any time limits. But the application should be made within a reasonable time determined according to the circumstances of the case.
Spain	No specific time limit. The applicable limitation period as defined under article 1961 and following of the Code Civil would apply.
Sri Lanka	According to s. 31 of the Arbitration Act, a party to an arbitration agreement pursuant to which an arbitral award is made may, within 1 year after the expiry of 14 days of the making of the award, apply to the High Court for the enforcement of the award.
Sweden	No time limit.
Switzerland	No specific time limit.
Syrian Arab Republic	Subject to reciprocity, the law does not specify a time limit for applying for recognition and enforcement of a Convention award. If the enforcement of a Convention award is time barred under the law of the country where it was issued, it will be incapable of being enforced in Syria.
Tanzania (United Republic of)	-
Thailand	The time limit is 1 year from the date of sending the copy of the award to the parties.
Trinidad and	Section 3 (1) (b) of Limitation of Certain Actions Act, Chap. 7:09 ("the Limitation Act") provides that an action to

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
Trinidad and Tobago	<p>Section 3 (1) (b) of Limitation of Certain Actions Act, Chap. 7:09 (“the Limitation Act”) provides that an action to enforce an award of an arbitrator given under an arbitration agreement (other than an agreement made by deed) shall not be brought after the expiry of 4 years from the date on which the cause of action accrued.</p> <p>The Limitation Act does not provide any guidance as to when the cause of action accrues; for example, whether from the date upon which the contract which contains the arbitration agreement is first breached or rather starts running after the date of the award by the arbitrator. There appears to be no local authority on this point.</p> <p>In the absence of local authority, it appears likely that a Trinidad and Tobago Court would follow the guidance provided by the English case of <i>Agromet Motoimport v. Maulden Engineering Co. (Beds.) Ltd.</i> [1985] 1 W.L.R. 762 (copy attached).</p> <p>The UK Court held that an action to enforce an arbitration award was an independent cause of action and the limitation period starts running from the date upon which the defendant fails to honour the Convention award. On that basis, an action to enforce a Convention award in Trinidad and Tobago made pursuant to an arbitration agreement (other than one made by deed) should be instituted within 4 years from the date upon which the Convention award was granted.</p>
Tunisia	No specific time limit. The award prosecuted in annulment before the Court of Appeal of Tunis and upheld by this Court shall be subject to the general time period provided for validity of the court decisions in Tunisia (20 years). The upheld award in a foreign court should be subject to time limitations in force in that country.
Turkey	No time limit.
Uganda	No time limit.
Ukraine	There is a general rule that, regarding arbitral awards, Ukrainian courts are guided either by periods of limitation which are applied for such awards in the countries where the awards were made, or by the period of limitation of 3 years.
United Kingdom of Great Britain and Northern Ireland	The application must state that the award is enforceable, this would normally mean that the award had not been made more than 6 years previously. Same period applies, irrespective of the type of award. Older awards require special consideration.
United States of America	An application for confirmation of an award must be made “[w]ithin three years after an arbitral award falling under the Convention is made.” 9 U.S.C. § 207. However, a party seeking to enforce an award under the general provisions of the Federal

Country name	Is there a limited time period for applying for recognition and enforcement of a Convention award?
United States of America	An application for confirmation of an award must be made “[w]ithin three years after an arbitral award falling under the Convention is made.” 9 U.S.C. § 207. However, a party seeking to enforce an award under the general provisions of the Federal Arbitration Act must apply within one year after the award is made. 9 U.S.C. § 9. Courts construing the one year limitation have differed on the question whether they have discretion to confirm an award even after the one-year period has ended. In any event, a party may expressly or impliedly waive the bar of the limitation period.
Uruguay	The Procedural Code in the chapter of “Recognition and Enforcement of foreign judgment” does not mention a period of time, but the general rule established in the Procedural Code is that the period of prescription is 20 years.
Uzbekistan	Pursuant to the legislation, decision of a foreign court or arbitration can be applied for enforcement within 3 years from the date of entering into force, regardless of the type of a claim or any other characteristics. However, under the Civil Procedural Code and the Economic Procedural Code, decisions of local intermediate courts can be applied for enforcement within 6 months from the date of expiring the period for volunteer enforcement of the decision of the intermediate court.
Venezuela	No time limit.
Vietnam	There is no mention in the Ordinance of any time limitation.
Zambia	The Arbitration Act does not specify a limited time period for applying for recognition and enforcement and nor does it differentiate between an award and a Convention award.
Zimbabwe	The Convention does not specify a time limit within which to apply for recognition and enforcement of an award.