

The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards is the foundation upon which the whole of international commercial arbitration stands: PART 2 – why is it relevant today?

The relevance of the New York Convention is demonstrated by the fact that a majority of countries have adopted it. By 2013, 149 countries have adopted the New York Convention. The broad applicability of the New York Convention to the recognition and enforcement of arbitral awards made in another state makes it the most recognized way of settling international disputes.

Along with the 1965 “Convention on the Settlement of Investment Disputes between States and Nationals of Other States” (“Washington Convention”), that intends to protect investors in a foreign state, the New York Convention is one of the cornerstones of international arbitration.

The legal relevance of the New York Convention is two-fold:

Firstly, Article II (3) of the New York Convention regulates the enforceability of the arbitration agreement. A court of a contracting state is required, if so requested by one party, to refer a dispute to arbitration if there is an arbitration agreement between the disputing parties in place. Therefore, the dispute is taken out of the jurisdiction of the state courts and resolved via arbitration.

Secondly, the legal relevance of the New York Convention can be observed when it comes to the “recognition” and “enforcement” of international arbitration awards. An international arbitration award must be treated as binding in the territory of the state applying the convention. The enforcement of the award will take place in accordance with the rules and procedures of the enforcing state. A review of the “merits” of the

award is not permitted.

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