RECOGNITION AND EXECUTION OF FOREIGN ARBITRATION JUDGMENTS

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Abstract

International commercial arbitration system is enshrined in both national legislation and international conventions. The power of the arbitrators to resolve the dispute is conferred by the parties, who agree that their litigation be brought to the attention of private individuals. To that end, the parties to the dispute designate the arbitrators and undertake to accept the decision they will make. Such a procedure has three distinctive characters: arbitrary, commercial and international[2]*. The importance and effectiveness of arbitration in international relations have been recognized by the Final Act of the Conference on Security and Cooperation in Europe of 1 August 1975. In order to contribute to the development and promotion of trade and cooperation, the participating States at the Helsinki Conference recommend to bodies, firms in their countries include, where appropriate, arbitration clauses in commercial contracts and industrial cooperation agreements or special convention. In the same spirit, the United Nations General Assembly recommends, in its preamble to Resolution no. 31/98 of 15 December 1976, which adopted the Arbitration Regulation drawn up by the United Nations Commission on International Trade Law, its dissemination and its widest possible application in the world, thus recognizing the usefulness of arbitration as a method of settling disputes arising from international trade relations.*[3]*In conclusion, in international trade relations, most of the litigation between participants is settled by arbitration as a form of private jurisdiction. Arbitration is an appropriate means to quickly and fairly regulate disputes that may result from commercial transactions in the field of goods and services exchanges.*[4]

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JEL Classification: K12, K33, K41

1. Introduction in foreign arbitration judgements

In the new Code of Civil Procedure, we encounter provisions on the recognition and enforcement of foreign arbitral awards in Art. 1109-1118 of Chapter II, Title IV of Book VII.

According to art. 1109 N.C.P.C. Romanian, a foreign arbitral award is a judgment given on the territory of a foreign state or is not considered as a national decision in Romania. The provisions of paragraph 1 of Article 1 of the New York Convention of 1958 refer only to the alienity of the arbitration award, without defining two criteria, one principal and the other one subsidiary. Not being cumulatively requested, the existence of one of them ensures the alienity of the arbitration award. The first criterion is objective and geographical and refers to arbitration awards that are foreign when they were given in the territory of a state other than that where recognition and enforcement are required. The second criterion is subjective and refers to foreign arbitration awards which are not considered as national in the state where recognition and enforcement are sought.

Arbitration decisions are to be enforced. By virtue of the binding effect of the judgment, the party who lost the arbitration is obliged to voluntarily execute the benefits to which the arbitral tribunal has been ordered (the handing over of a good to the other party, the payment of a sum of money, the performance of a benefit, etc. - restoring or recognizing thus the violating subjective right of the other party). If the execution takes place voluntarily, no problem arises.

In practice, sometimes convinced of the fairness of the judgment, the debtor will voluntarily execute the benefit to which he was compelled, but most often, when he refuses the voluntary execution, the legislator instituted the possibility of enforcing the judgment, with the help of the

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[2] A. Severin, *Fundamental Elements of Law of International Trade*, Ed. Lumina Lex, Bucharest, 2004, p. 369.

[3] I. Macovei, *The Right of International Trade, Volume II*, Ed. C.H.Beck, Bucharest, 2009, p. 263.

[4] *Idem*, p. 263.

coercion force of the state (more precisely through the bailiffs, who, if necessary, may appeal to the public force competition).

In the case of forced execution even in the country that issued it, the authorities of that state will, as a rule, give the necessary support as long as the national law (the law of the forum) has the same power as the courts of law.

The Supreme Court set the facts and principles, stating that: "*From the wording of the legal texts, it follows that the action for annulment is an action that is brought directly to the court immediately superior to the court provided by Article 608 of the NCPC ... In the case the lawmaker had expressly stated, as it did for appeal and appeal, that the action is to be brought before the arbitral tribunal which pronounced it. Furthermore, it is obvious that the arbitral tribunal is not a court within the meaning of the provisions of the New Code of Civil Procedure and therefore can not reasonably be maintained that the action is submitted to the arbitral tribunal solely on the ground that the application for annulment has been classified as an appeal*"[5]. In art. 1110, the conditions under which a foreign arbitral award is recognized and can be enforced in our country are regulated, namely: the dispute for which the judgment has been delivered may be arbitrarily settled in Romania and if the judgment does not contain provisions contrary to public international law Romanian private.

2. Legal bases applicable in the field of recognition and the execution of foreign arbitral rulings in Romanian law

Arbitration is conducted on the basis of the arbitration agreement and the parties may designate as referees' persons with full confidence. At the same time, the parties may decide whether they want the litigation between them to be settled on the basis of the rules of law or equity, and enjoy broad prerogatives in determining the rules applicable to the arbitration proceedings. These features of arbitration are likely to lead to the arbitration of arbitration. If this does not happen, however, the arbitral awards are enforced after they have been enforced by enforceable formula.

Since the 20th century, arbitration has become the preferred form of litigation arising from international trade operations. Due to its generalization and importance, the arbitration institution is governed by international, multilateral and bilateral conventions. Regements applicable to arbitration are part of a continuous process of improvement and adaptation to the specifics of international affairs.[6]

Although a number of conventions governing the arbitration of the early twentieth century were signed, the most important ones emerged after the Second World War:

- Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on 10 June 1958 (to which Romania acceded by Decree no. 186 of 24 July 1961);

- European Convention on International Commercial Arbitration - signed at Geneva on 21 April 1961 (Romania ratified it by Decree no. 281 of 25 June 1963); this Convention has succeeded in substantially uniform uniformity in the law to overcome some of the difficulties caused by the diversity of national laws and to give the parties autonomy of the will to organize arbitration, to determine its procedure without resorting to national law and to give judges powers sometimes greater than those of judges. At the same time, the organization of arbitration was established by permanent institutions, namely organized for this purpose.

- Convention on the Settlement of Investment Disputes between Governments of the Governments of the International Bank for Reconstruction and Development (IBRD), signed in Washington on 18 March 1965 (ratified by Romania by Decree No 62 of 7 April 1975). This

[5] High Court of Cassation and Justice, *commercial department*, Decision 115 of January 20, 2004.
[6] I. Macovei, *op.cit.*, p. 273.

Convention created an International Center for the Settlement of Investment Disputes, providing the Parties with means of conciliation and arbitration to resolve certain disputes[7].

A role in the regulation of international commercial arbitration has also the rules of the permanent arbitration institutions, according to which the arbitration is organized by avoiding as much as possible the reference to the national laws, and the prestige of the arbitrators within these institutions imposed the authority of these permanent arbitration institutions[8].

3. The effects of foreign arbitral decisions

Given the peculiarities of international trade agreements, several debates have been held over the years that have focused on the effects of foreign arbitration[9].

Under the conditions of the development of international economic cooperation and the expansion of world trade, a new concept and a new approach to the complex issue of the effects of foreign arbitration[10].

Among the most important tendencies registered in the international regulations, it is worth noting: the extension of the arbitral decision, the presumption of international regularity of the decision, the limitation of the cases of invalidity of the arbitral award, the limitation of the control over the way of solving the conflicts of laws through the foreign arbitration , the exclusion of the substantive revision of the foreign arbitration award, the grant of the national regime to certain foreign arbitral awards in order to execute them[11].

The court resolves the dispute on the basis of the main contract and the applicable rules of law, also taking into account commercial usage. The decision is the result of a deliberation in a secret hearing, with the participation of all the arbitrators in person, and this decision is recorded in the decision. It is drafted immediately after deliberation and the settlement of the dispute in the arbitration litigation. Arbitration rules in the field of international commercial arbitration also deal with the effects of foreign arbitral awards.

As to the facts of the case, the foreign judgment given by a competent court has a probative force against the Romanian authorities. In view of this effect, the foreign judgment has the value of an authentic document. The personal findings of the foreign judge included in the judgment contain the force of proof provided for by the law of the State of origin. This constitutes a complete test, until it is falsified in the State where the judgment was delivered.

Article 54 (1) of the 1965 Washington Convention provides that each Contracting State shall recognize any sentence given under this Convention as binding and shall ensure the execution in its territory of the pecuniary obligations imposed by the sentence as if it were a final judgment of a tribunal operating on the territory of that State.

International conventions may also provide for other effects that recognition may produce. For example, the recognition of foreign arbitration awards refers to:

a) the effects that the foreign arbitral award produces as a legal fact;

b) the probative effects of the foreign arbitral lien as a legal act;

c) the power of judgment.

According to art. III of the 1958 New York Convention, each of the Contracting States shall recognize the authority of an arbitration award and shall enforce that sentence in accordance with

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[7] T. R. Popescu, C. Bârsan, Dreptul comerţului international, Printing House of the University of Bucharest, Bucharest, 1983, p. 32-33.

[8] *Idem*, p. 35.

[9] Commercial arbitration was represented by courts created occasionally by the will of the parties. Gradually, permanent arbitration centers have become more and more important. However, until World War II, they were not explicitly envisaged in the international regulations adopted at that time (see the 1923 Geneva Protocol and the 1927 Geneva Convention). Later, international trade arbitration analysts argued that the two legal instruments "did not exclude permanent arbitration centers from the scope" (Clive M.Schmitthoff, *The Geneva Protocol and Convention*, p. 688-689).

[10] Dumitru Mazilu, *Introductory Remarks on the effect: enforciability of arbitration agreements and arbitral decision,* New York, 1998.

[11] For an in-depth analysis of these trends, see Octavian Căpăţână, *Nouvelle tendances dans on the regulation of effects of sentences of arbitrales etrangeres*, in the journal "*Revue Roumaine des Sciences Sociales*", Sciences Juridiques serias, no. 1/1977, p. 63-75.

the rules of procedure in force in the territory in which the sentence is invoked under the conditions laid down in the Uniform Rules. For the recognition or enforcement of arbitration awards to which the provisions of the Convention apply, no more stringent conditions or considerably higher charges than those required for the recognition or enforcement of national arbitration awards will be imposed. In our law, the effects of foreign arbitral awards are provided by art. 1124-1133 N.C.P.C. In our legal system, the arbitral award produces the following effects: resolves the arbitral tribunal, enjoys res judicata, has probative force and is an executor title.

The New York Convention is considered superior to previous regulations in this field, being a success of legal thinking, in that it facilitates the "*international exchange of goods and services*" - objectives constantly pursued in the legal relations of international trade.

4. Recognition and enforcement of foreign arbitral awards in conventional law

4.1. Regulations of the New York Convention of 1958

Negotiation and adoption of the New York Convention in June 1958 is considered to be "*a benchmark in the field of international commercial arbitration*" in the optics of the most well-known analysts in the field.

Under the 1958 New York Convention, recognition and enforcement of the arbitration award are subject to the condition that a foreign arbitration award has become binding on the parties and has not been annulled or suspended [12].

A presumption of regularity of the foreign arbitration award is established under the Convention. Thus, it is stipulated in art. V that the recognition and enforcement of the sentence shall not be refused, at the request of the party to whom it is invoked, unless it has shown before the competent authority of the requesting country that there are any of the explicitly listed causes of invalidity. Only the adverse party had to prove that the regularity requirements of the arbitration award were not met. This measure allows the extraterritorial effectiveness of the effects of foreign arbitral tribunals.

In order to obtain the recognition and enforcement of a foreign arbitration award, the party invoking it has to take a number of acts, namely to produce the following documents with the request:

- the original of the authenticated sentence or a copy of that original, meeting all the conditions for its authenticity;
- the original of the written agreement whereby the parties undertake to submit to arbitration all disputes or certain disputes which have arisen or might arise between them on a contractual, non-contractual, contractual relationship, in relation to a problem which may arise be settled by arbitration, or a copy of this original;
- a translation of the arbitral tribunal and of the arbitration agreement if they are not drafted in the same language as the one in the country for which recognition and enforcement are sought, certified by an official.

Under the 1958 New York Convention, reciprocity is promoted. Thus, the application of the provisions of the Convention or the arbitration arousal of a non-Contracting State, if there is reciprocity between it and that country, is established by agreements between the parties.

Article V of the New York Convention lists limitatively the cases of invalidity of the foreign arbitration award, being grouped into two categories:

I. The first category refers to impediments opposing the recognition and enforcement of a foreign judgment listed in paragraph 1 of Article V and to be proved by the party against whom the sentence is invoked. These consist of the following:

[12] In accordance with the provisions of the New York Convention, the arbitration award becomes enforceable from the time it was handed down. It is known that in the Geneva Convention of 1927, unlike the 1958 New York Convention, it was expressly demanded that the arbitral award should not lead to any appeal in the State in which it was delivered (art. d) of the Geneva Convention of 1927).

- the parties to the arbitration agreement were, by virtue of their applicable law, affected by an incapacity, or that the said agreement is not valid under the law of which the parties have subordinated it or, in the absence of indications to that effect, by virtue of the law of the country where the sentence was given;

- the party against whom the sentence was invoked was not adequately informed of the arbitrators' designation or arbitration procedure, or it was impossible, for any other reason, to use its defense means;

- the sentence relates to a dispute not mentioned in the compromise or does not fall under the provisions of the compromise clause, or it contains rulings that go beyond the compromise or the compromise clause;

- the establishment of the arbitral tribunal or the arbitration procedure was not in accordance with the agreement of the parties, or in the absence of a convention, it was not in conformity with the law of the country in which the arbitration took place;

- the sentence has not become binding on the parties, or has been annulled or suspended by a competent authority of the country where, or according to the law of, the sentence was given.

II. The second category involves the refusal of recognition and enforcement, according to paragraph 2 of art. V, which may be invoked ex officio by the competent authority of the requested State, such as:

- the subject of the dispute is unlikely to be settled by arbitration, in accordance with the law of that country;

- the sentence is contrary to the public order of this country.

The New York Convention is of particular importance in facilitating the legal regime of foreign arbitral awards, requiring the parties to be bound by the arbitration award, and not canceling it in the State of origin, the validity of the arbitration agreement, respect for the rights of defense of the parties, of public order in the requested State, including legal provisions establishing the arbitral character of the dispute between the parties, observance of the arbitration agreement in terms of the conduct of the litigation procedure. According to the 1958 New York Convention, the recognition and enforcement of the arbitration award is conditional on the failure of the parties to agree to the arbitral tribunal.

If the foreign arbitration award does not meet the conditions of regularity analyzed, it can not be effective. The sanction applied in this situation consists in the refusal to recognize and execute the foreign arbitral award in its entirety. It may also be partially rejected if the court has exceeded the provisions of the arbitration agreement.

The Convention provides that where the provisions of the judgment relating to arbitration issues can be separated from those relating to matters which are not subject to arbitration, the former may be recognized and enforced [13].

4.2. Regulations of the 1961 Geneva Convention

The purpose of the 1961 Geneva Convention is to establish the legal regime of the International Trade Arbitration Convention and to regulate that procedure.

Unlike the New York Convention of 1958, the provisions of the 1961 Geneva Convention, in the text of Art. IX limits the grounds for the annulment of the foreign arbitration award. The 1961 Geneva Convention only contains some provisions on the regularity of foreign arbitral awards, the annulment of an arbitration award in one of the Contracting States of the Convention, it will not constitute a ground for refusal of recognition or enforcement in another State unless the annulment has been given in the State in which, or after the law where the sentence was given.

The reasons for requesting the annulment of an arbitration award are the following:

[13] See Art. V, paragraph 1, letter c) of the 1958 New York Convention.

- the parties to the arbitration agreement have been affected by incapacity under the applicable law or the convention is not valid under the law to which the parties have submitted it or, failing that, in accordance with the law of the country where the sentence was passed;

- the party requesting the annulment was not properly informed of the designation of the arbitrator or of the arbitration procedure, or was impossible for another reason to support his case;

- the sentence relates to a dispute not mentioned in the compromise or does not fall under the provisions of the compromise clause or contains judgments that go beyond the terms of the arbitration agreement;

- the establishment of the arbitral tribunal or the arbitration procedure was not in accordance with the understanding of the parties or, in the absence of convention, with the provisions of the Convention on the Organization of Arbitration;

By listing these cases, it can be observed that annulment of the arbitration award in the State of origin for failure to comply with its public policy laws is not such as to prevent its recognition and enforcement in another country where public order does not would be violated. However, the invocation of public order will depend on the interpretation given to the text by national enforcement bodies. The limitation of the cause of annulment of the cancellation of foreign arbitral awards applies only between States Parties to the Geneva Convention and the New York Convention.

4.3. Washington Convention of 1965 reglementations

The 1965 Washington Convention only as regards disputes relating to investment between States and natural or legal persons of other States contains provisions on the recognition and enforcement of arbitration awards, thus applying only in a limited field of international trade and international economic and technical-scientific cooperation, international investment.

Under the Washington Convention, each Contracting State recognizes any arbitral award made under the provisions of this Convention, ensuring the execution of the pecuniary obligations imposed by the judgment.

Article 54 of the Convention provides that each Contracting State shall recognize any sentence given in the Convention as compulsory and shall ensure the execution in its territory of the pecuniary obligations which the sentence imposes, as in the case of a final judgment of a tribunal operating on your own territory. In the Convention system, arbitration judgments are assimilated to domestic judgments. Thus, as not being a foreign jurisdiction, they are not subject to the preliminary scrutiny procedure.

Under the 1965 Washington Convention, in order to obtain the recognition and enforcement of a foreign arbitration award in the territory of a Contracting State, the party concerned must provide a certified copy of those judgments before the competent national court or any authority designated by requested State. The International Center for the Settlement of Investment Disputes may conduct compliance certification. No other procedure is imposed in the case in question, it is not imposed in the matter, and it is for each Contracting State to inform any changes.

Under this Convention, the execution of foreign arbitral awards "shall be governed by the law on the enforcement of judgments in force in the State in which such a procedure is applied", in accordance with Article 54 (3) of the Convention.

5. Recognition and enforcement of foreign arbitral awards in Romanian law

The institution of *recognition* generally appeared and developed relatively late, compared to the international private law science, giving the alien, in a generic sense, the possibility of recognizing some rights acquired in another state as a result of the recognition of a foreign law.

The request for recognition and enforcement of the foreign arbitral award shall be made by an application to the court in whose jurisdiction the domicile or, where appropriate, the seat of the opposing arbitrator is located. Next Art. 1111 states in paragraph 2 that if that tribunal can not be

identified, the request is addressed to the Bucharest Tribunal. This application can be made only with the recognition of the foreign arbitration award in order to be able to invoke the power of trial, or, if this is not done voluntarily, to invest the arbitration award with enforceable enforcement order on the territory of Romania. Recognition of a foreign arbitration award may also be requested incidentally. The request for recognition of the foreign arbitration award interrupts the limitation period for its execution. According to art. 1113, the application must be accompanied by the arbitral award and the arbitration agreement, in original or copy, which are subject to over-legalization under the conditions of Art. 1078. In case these documents are not written in Romanian, the application must be accompanied by translations in their Romanian language, certified for conformity.

Article 1114 provides for situations in which the recognition or enforcement of foreign arbitral awards will be rejected by the tribunal, namely:

a) the parties did not have the legal capacity to conclude the arbitration agreement, according to the law applicable to each and indicated by the private international law of the State where the arbitration award was handed down;

b) the arbitration agreement is not valid under the law chosen by the parties or in the absence thereof under the law of the state where the arbitration award was delivered;

c) the party against whom the sentence is invoked was not properly informed about the appointment of arbitrators or the arbitral proceedings or was unable to defend himself in the arbitral proceedings;

d) the formation of the arbitral tribunal or its proceedings did not comply with the parties' agreement or, in the absence of such agreement, with the law of the place where the arbitration took place;

e) the judgment concerns an unforeseen dispute in the arbitration agreement or beyond the limits set by the arbitration agreement or contains provisions that go beyond the terms of the arbitration agreement. If the provisions of the judgment on matters subject to arbitration can be separated from those on matters that are not subject to arbitration, then the first category of provisions may be recognized and declared enforceable;

f) the arbitral award has not become binding on the parties or has been annulled or suspended by the competent authority of the State where it was delivered or the law of which it was handed down.

The Tribunal may suspend the judgment on recognition and enforcement of the foreign arbitration award if its annulment or suspension is requested by the competent authority of the State where it was pronounced or by the State under whose law it was pronounced. The tribunal may also, at the request of the party requesting the recognition and enforcement of the foreign arbitral award, order the lodging of a bail by the other party (Article 1115).

According to art. 1116 of the new Civil Procedure Code, the request for recognition or execution of the foreign arbitral award shall be settled after the parties have been summoned by a decision which can be appealed only on appeal. The application may be settled without the parties being summoned if the judgment shows that the defendant has agreed to the admission of the action. Article 1117 provides that foreign arbitral awards given by a competent arbitral tribunal shall benefit in Romania from the probative force in respect of the facts which it finds.

According to art. 1118 The Code of Civil Procedure, the Romanian Court can not examine the arbitral award in the context of the dispute.

From the point of view of etymology, and given the current language, recognition is the act through which an existing and known quality is found and admitted as belonging to a thing, person or legal relationship. Sometimes recognition occurs as a result of a request from an interested person, as a result of a complaint in relation to one thing, quality or legal relationship in question. In this situation, recognition means the favorable response from the competent body to the claim to possess a thing, a certain quality, status and to be treated accordingly.

Over time, court judgments handed down in foreign states have been viewed with suspicion by national authorities, a situation primarily stemming from the principle of sovereignty and

territoriality of the effects of national law. In the modern age, the strict application of these principles in judicial matters has become a hindrance to the development of international exchanges, where the need to recognize the effects of foreign judgments (particularly in terms of their forced execution in a state other than that in which they were pronounced) led to the elaboration of rules of private international law, including the conditions once established by the judicial control, oblige the recognition of the effects of the foreign judgment requested by the interested party.

As shown in the legal literature, the efficiency of exchanges of material and spiritual goods between countries or persons from different states could not be ensured without the existence of the legal sanction, the expression of which is given by judgments pronounced in a state other than that in which they are later put to value.

In a relevant doctrine definition, the recognition and approval of enforced enforcement of a foreign court or arbitration award is the procedure by which a judgment given in another State may take effect in another State. The procedure consists in verifying by the court of the requested State the fulfillment of certain conditions of international regularity of the foreign judgment. By recognition, the judgment extends its power of trial in the Requested State, and by enforcing enforced enforcement, the judgment is enforceable in that State.

According to the law, foreign arbitral awards can be recognized in Romania in order to benefit from the power of the trial, by properly applying the provisions of the Law on the regulation of private international law. At the same time, the possibility of enforcement of foreign arbitral awards against those obliged to carry them out is guaranteed by art. 1103-1110 N.C.P.C. Foreign arbitral awards - subject to their ruling by a competent foreign arbitral tribunal - shall be recognized as probative evidence before the Romanian courts in respect of the facts established in that judgment.

The regime of foreign judgments is based on certain principles of public and private international law. Their international effects stem from the principle of cooperation between states, the principle of state sovereignty, the principle of equality of rights of states and the principle of applying the national regime to foreign citizens [14].

The party requesting the recognition and enforcement of the foreign arbitration award shall be required to prove that the conditions laid down by law have been met.

Through these regulations, Romania has aligned itself with the internationally agreed provisions in the years 1958-1965, which implies the increase of the quality level of the entire activity in international trade, so that the transactions are in compliance with all the accepted and recognized standards worldwide.

In conclusion, by recognizing a foreign judgment, we must understand the confirmation of its effects, accepting the occurrence of these effects - less the enforceable power - in the territory of a state other than that in which it was pronounced. By recognizing a foreign judgment, it is virtually assimilated to national judgments, its naturalization occurs, its acceptance with the same value as any other national sentence.

6. Conclusions

Arbitration is considered a form of justice specifically adapted to litigation between traders due to its features. The advantages of arbitration over traditional state justice are multiple. Among these, the possibility of choosing the arbitrators, depending on their competence, training or professional reputation, the lack of publicity of litigations brought to arbitration, the possibility of settling the litigation in equity, etc. may be mentioned.

The extensive judicial practice, both in matters relating to the organization of arbitration and those of a commercial nature solved by the arbitration courts and the courts invested with a request

[14] See O. Căpățână, *The Effects of Foreign Judicial Decisions in Romania*, Ed. Romanian Academy, Bucharest, 1971, p.31 end the fallowing.

for annulment of the arbitral award, proves the wide use in practice of this method of solving disputes.

This form of solving international trade disputes by establishing a private jurisdiction has effects both to meet the needs of celerity and those of trust that together stimulate commercial activity. The increase in celerity by increasing confidence is achieved by the fact that international trade law subjects will be encouraged to enter into international trade operations when they know that possible disputes arising from the conclusion, interpretation or execution of their contracts can be resolved by neutral courts from a national point of view, to which the parties to the dispute have a direct contribution and which apply standard procedures that can be easily understood by them.

The solutions resulting from the trial of the dispute through arbitration are recorded by an arbitration award, or, as is now known, an arbitration award. According to art. 368 para. 3 of the Criminal Procedure Code, the arbitral award has the effects of a final court judgment, which means on the one hand that it is final and on the other hand that it is mandatory and susceptible forced execution. The arbitral, binding and final arbitration award may be terminated only by way of an action for annulment but not for reasons relating to the substance of the dispute but only for the procedural exceptions provided for in the Code of Civil Procedure.

Arbitration confers confidentiality, the conduct of the arbitration procedure is carried out in a closed circle, which allows the keeping of commercial secrets and the avoidance of judicial advertising, which is not negligible, especially in commercial relations. The private nature of arbitration explains that arbitration is not governed by the principle of advertising. Thus, only the parties - personally or through their representatives - participate in the litigation. Neither the decision of the arbitral tribunal shall be pronounced in the public hearing, it being brought only to the knowledge of the parties involved. In fact, the law establishes the liability of the arbitrators for breaching this obligation. In this way, the reputation of the parties, especially the traders, may remain unaffected, regardless of the final ruling in arbitration.

Another advantage for which the parties can resort to the arbitration method is that of lower fees than the judiciary, especially in ad hoc arbitration. Arbitral fees vary according to the value of the object of the arbitral request, but also on the domestic or international character of the dispute. The amount of fees is also influenced by the number of arbitrators appointed by the parties, with one arbitrator being the most advantageous in this respect.

In conclusion, resorting to such a method of conciliation between the parties can lead to an arbitration decision, to a favorable solution for both parties, so the satisfaction is on both ends, even having the possibility of determining how arbitration can take place, the time when to solve the free choice of arbitrators to resolve their disputes.

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