

## Arbitration - Cyprus

### Court rejects application to enforce Russian arbitral decision

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In a recent application (32/2012) before the Nicosia District Court, the applicant sought recognition and enforcement of a decision issued by the International Commercial Arbitration Court (ICAC) at the Chamber of Commerce and Industry of the Russian Federation in December 2011.<sup>(1)</sup>

The respondent filed an objection arguing that an original or true copy of the decision issued by the ICAC had not been submitted together with the application, in accordance with Articles 4(1) and 4(2) of Law 84/79 (which ratified the New York Convention). Further, the respondents were of the opinion that the true copy should have been certified by a notary officer and stamped according to the law of the state in which the decision was issued.

The court mentioned the decision in *A Groutas Co Ltd v Pepelasi*,<sup>(2)</sup> in which it was indicated that:

*"Such validation should come from competent person confirming the authenticity of signatures and the seal. The mere existence of signatures and seal without the authentication does not make the document 'certified copy'."*

This was also supported by *Bristol Business Corporation v Besuno Limited*.<sup>(3)</sup>

The court then went on to explain the meaning of the word 'authentication'. It referred to *Black's Law Dictionary*, which defines it as follows:

*"In the law of evidence. The Act or mode of giving authority or legal authenticity to a statute, record, or other written instrument, or a certified copy thereof, so as to render it legally admissible in evidence. Verifications of judgments. An attestation made by a proper officer by which he certifies that a record is in due form of law, and that the person who certifies it is the officer appointed so to do."*

Further, on the issue of who can certify arbitral awards, the court referred to a textbook entitled *Enforcement of International Arbitration Awards*,<sup>(4)</sup> which states that:

*"Parties can turn to a diplomatic or consular agent of the country where enforcement is sought in the country where the arbitration took place. Judicial officers or notaries in the country (where the arbitration took place) are other options."*

In the case at hand, the arbitral decision attached to the affidavit indicated that "this decision was made and signed in three equivalent copies, one of which is to be stored in the archive of DEDD, one for the applicant and one for the party against whom the application was made".

Related to this issue was the reference made by the lawyer of the respondents to the phrase "duly authenticated original award or duly certified copy of it" in Article 4 of the Arbitration Act 1975, which was enacted to implement the convention. According to *Halsbury's Statutes*,<sup>(5)</sup> "this means duly authenticated or duly certified in the manner required by the law of the country in which the award was made".

The application was rejected by the court, which ordered costs against the applicant.

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### Endnotes

(1) Case 50/2011, dated December 27 2011.

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(2) (1998) 1 AAD 1675.

(3) Civil Appeal 321/2007, dated May 30 2011.

(4) Pretra & Platte, page 126.

(5) Volume 2 (4th Edition), page 606.

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