

# Recognition and enforcement of London Court of International Arbitration award

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## Introduction

## Facts

## Decision

### Introduction

On September 4 2015 Lukoil Mid-East Limited filed an application with the Nicosia District Court for the recognition and enforcement in Cyprus of a September 3 2015 London Court of International Arbitration award. Terra Seis Cyprus Limited objected on the grounds that the substantive and procedural prerequisites for the recognition and enforcement of the arbitral award in Cyprus had not been met. In this context, the court examined whether the relevant requirements for recognition and enforcement of the arbitral award in Cyprus had been satisfied.

### Facts

Lukoil supported its application with reference to Law 84/79, which had implemented the New York Convention in Cyprus, and the International Arbitration Law 1987.

Terra alleged that the applicant had not proven that the United Kingdom applies the New York Convention as a treaty for mutual recognition and enforcement and that therefore the requirement of mutuality had not been fulfilled. As a result, Terra stated that Lukoil could not support its application under Law 84/79. Further, the respondent alleged that the affidavit was not permissible, as it had been made by a lawyer who did not know the facts.

The court initially stated that the evidence submitted by the applicant left no doubt that the New York Convention had been ratified by Cyprus and the United Kingdom and was applicable in both countries. Therefore, the application could be tried under Law 84/79. The court further stated that under established case law, in applications for the recognition and enforcement of arbitral awards, courts have a supervisory role and do not examine the disputes on the merits. Instead, the applicant is obliged to provide evidence to satisfy the requirements of Section IV of the New York Convention. Once a court is satisfied that Section IV's requirements have been fulfilled, it examines whether, pursuant to Section V of the convention, there is any other reason to justify the dismissal of the arbitral award's recognition and enforcement.

Section IV of the New York Convention requires that any such application be accompanied by:

- a duly authenticated original or certified copy of the arbitral award; and
- a duly certified original or certified copy of the arbitration agreement.

In examining the evidence provided, the court noted that the applicant had undoubtedly satisfied the Section IV requirements.

The court also examined the following matters to assess whether there was any other reason to justify the application's dismissal under Section V:

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- The affidavit made by the lawyer who did not know the facts – according to the court, this objection was not valid. With reference to *Rybolovlev ao v Rybolovleva* (2010) AAD 82, the court explained that an affidavit is not excluded merely because the affiant is a lawyer. Instead, an explanation of why the affiant was not party to the proceedings must be provided.
- Insufficient proof of Law 84/79's applicability and the arbitral award's enforceability in the United Kingdom – the applicability of Law 84/79 in the United Kingdom and the arbitral award's enforceability was clearly demonstrated by the evidence that the applicant provided.

## **Decision**

In light of the above, the court concluded that Terra had failed to demonstrate any valid reason for the dismissal of the application. Thus, the requirements under Section IV of the New York Convention for the recognition and enforcement of the arbitral award in Cyprus had been satisfied.

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