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ПРАВО И МЕЖДУНАРОДНЫЕ ОТНОШЕНИЯ

PROCEEDING ON CASES WITH THE PARTICIPATION OF FOREIGN PERSONS IN INTERNATIONAL PROCEDURE LAW OF RUSSIA AND BELARUS (The end)[1]

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Abstract. This article is dedicated to one of the most interesting aspects of International Procedural Law – litigation with the participation of foreign persons. Authors focused on a comparative analysis of Russian and Belarus legislation concerning the regulation of international procedural relations. Article includes two parts: the first one considers international jurisdiction of Russian arbitrazh courts and Belarus economic courts on commercial matters; the second one examines the recognition and enforcement of foreign judgments in commercial matters on the territory of Russia and Belarus. Authors deeply scrutinized a wide range of legal documents including domestic legislation, bilateral and multilateral international treaties of regional character in order to show the convergences and divergences in Russian and Belarus procedural law concerning participation of foreign persons in international commercial litigation.

Key words: International Procedural Law, International Civil Procedure, international judicial jurisdiction, foreign persons, international commercial disputes.

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ПРОИЗВОДСТВО ПО ДЕЛАМ С УЧАСТИЕМ ИНОСТРАННЫХ ЛИЦ В МЕЖДУНАРОДНОМ ПРОЦЕССУАЛЬНОМ ПРАВЕ РОССИИ И БЕЛАРУСИ (Окончание)[2]

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[1] For the beginning, see: Gosudarstvo i pravo=State and Law, No. 10 (2021), pp. 173–185.

[2] Начало см.: Государство и право. 2021. № 10. С. 173–185.

Аннотация. Настоящая статья посвящена одному из наиболее интересных аспектов международного гражданского процесса – производству по делам с участием иностранных лиц. Авторы сконцентрировали свое внимание на сравнительном анализе российского и белорусского законодательства, касающегося регулирования международных процессуальных отношений. Статья включает две части: в первой – рассматриваются вопросы международной юрисдикции российских арбитражных судов и белорусских экономических судов по разрешению международных коммерческих споров; во второй части исследуются вопросы признания и принудительного исполнения иностранных судебных решений по коммерческим спорам на территории России и Беларуси. Авторы детально изучили широкий круг правовых источников, включая национальное законодательство и международные договоры регионального характера, для того чтобы выявить сходные черты и различия в российском и белорусском процессуальном праве применительно к производству по делам с участием иностранных лиц.

Ключевые слова: международное процессуальное право, международный гражданский процесс, международная судебная юрисдикция, иностранные лица, международные коммерческие споры.

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Настоящая статья подготовлена при поддержке правовой информационно-справочной системы «КонсультантПлюс». Все международные договоры Российской Федерации, нормативные правовые акты и судебная практика приводятся по данным СПС «Консультант Плюс».

Recognition and Enforcement of Foreign Judicial Decisions on the Territory of Russia and Belarus

Whether a judicial decision will be recognized and enforced is a vital consideration in structuring contractual relations, for if that is impossible or unlikely, foreign economic and investment transactions are likely to involve additional costs reflecting the legal risks or to be avoided completely. A judicial decision, being an act of the public authority of one State must be recognized and enforced on the territory of another State to which the public authority of the first State does not extend. By virtue of generally-recognized principles of international law, namely territorial integrity and the sovereign equality of States, the recognition and enforcement of a foreign judicial decision is possible only on the basis of respective norms of national legislation or an international treaty[3]. Both are possibilities under the law of the Russian Federation and the Republic Belarus with certain peculiarities[4].

The norms of national legislation of Russia and Belarus on the recognition and enforcement of foreign judicial decisions are contained in Chapter 31 of the Code of Arbitrazh Procedure "Proceeding on Cases on Recognition and Enforcement of Decisions of Foreign Courts and Foreign Arbitrazh Decisions" and

[3] See: *Boiko K.S.* Роль и значение международного договора как инструмента регулирования признания и исполнения иностранных судебных решений [Role and Significance of International Treaty as an Instrument of Recognition and Enforcement of Foreign Judicial Decisions] // Пробелы в росс. законодательстве [Lacunas in Russian Legislation], No. 1 (2020), pp. 69–71; *Kostin A.A.* Международный договор как правовое основание признания и исполнения иностранных судебных решений: прошлое, настоящее, будущее [International Treaty as a Legal Ground for Recognition and Enforcement of Foreign Judicial Decisions: Past, Present, Future] // Закон [Law], No. 8 (2018), pp. 162–176.

[4] For details, see: *Boiko K.S.* Признание и исполнение иностранных судебных решений в России: реалии и перспективы [Recognition and Enforcement of Foreign Judicial Decisions in Russia: Realities and Prospects] // Право и образование [Law and Education], No. 12 (2018), pp. 205–213; *Fedorov R.V.* Теоретический анализ юридических оснований признания и исполнения иностранных судебных решений в Российской Федерации [Theoretical Analysis of Legal Grounds of Recognition and Enforcement of Foreign Judicial Decisions in the Russian Federation] // Вестник Екатерининского института [Herald of the Catherinian Institute], No. 2 (2017), pp. 129–133; *Shebanova N.A.* Признание и приведение в исполнение иностранных судебных решений в практике российских судов [Recognition and Enforcement of Foreign Judicial Decisions in the Practice of Russian Courts] // Труды ИГП РАН [Proceedings of the Institute of State and Law of the Russian Academy of Sciences], No. 1 (2017), pp. 22–43; *Vanisova A.O.* Правовое регулирование признания и исполнения иностранных судебных решений в Российской Федерации [Legal Regulation of Recognition and Enforcement of Foreign Judicial Decisions in the Russian Federation] // Актуальные вопросы экономики, управления и права: сб. науч. тр. [Topical Problems of the Economics, Management, and Law: Collection of Scientific Works], No. 2–3 (2018), pp. 87–166; *Voitovich E.P.* Признание и приведение в исполнение иностранных судебных решений в России: коллизии правоприменения [Recognition and Enforcement of Foreign Judicial Decisions in Russia: Conflicts of Law Application] // Росс. юрид. журнал [Russian Legal Journal], No. 2 (2019), pp. 126–134; *Silberman L., Ferrari F. (eds.)* Recognition and Enforcement of Foreign Judgments (Private International Law Series, vol. 6) (2017). Deserving of special attention is the fact that in the nineteenth century special works appeared in Imperial Russia on this issue. See, for example: *Markov P.* О приведении в исполнение решений судебных мест иностранных государств [On Enforcing Judicial Decisions of Foreign States] // Журнал Министерства юстиции [Journal of the Ministry of Justice], XXII (1864), pp. 25–46, 211–224; *Engel'man I.E.* Об исполнении иностранных судебных решений в России [On the Enforcement of Foreign Judicial Decisions in Russia] // Журнал гражданского и уголовного права [Journal of Civil and Criminal Law], No. 1 (1884), pp. 75–121.

Chapter 28 of the Code of Economic Procedure with an identical title. According to Article 241 of the Code of Arbitrazh Procedure, the decisions of foreign courts adopted with regard to disputes and other cases arising when undertaking entrepreneurial and other economic activity are recognized and enforced in the Russian Federation by arbitrazh courts if the recognition and enforcement of such decisions is provided for by international treaties of the Russian Federation and a federal law[5].

The norms of Belarus legislation regulating the recognition and enforcement of foreign judicial decisions are set out in the Code of Economic Procedure (Article 245). They provide that decisions of foreign courts are recognized and enforced by courts of the Republic Belarus if recognition and enforcement has been provided by Belarus legislation and/or an international treaty of the Republic Belarus, or on the basis of reciprocity. It is worth mentioning that Decree of the Plenum of the Supreme Court of the Republic Belarus No. 18 "On the application by courts of legislation on the recognition and enforcement of foreign court decisions and foreign arbitral awards" of 23 December 2014, as amended by Decree No. 11 of 28 September 2017[6], says a little differently: decisions of foreign courts are recognized and enforced in the Republic Belarus, if this is provided for by an international treaty of the Republic Belarus or on the basis of the principle of reciprocity. Decisions of foreign courts that do not require enforcement are recognized both by virtue of international treaties to which the Republic Belarus is a party, and in cases where such recognition is provided for by its legislation.

Reciprocity. The Code of Economic Procedure separates out reciprocity as an autonomous ground for the recognition and enforcement of foreign judicial decisions on the territory of Belarus. It is, however, difficult to conclude that in the Russian Code of Arbitrazh Procedure the principle of reciprocity is an autonomous ground for the recognition and enforcement of foreign judicial decisions. The possibility of the recognition and enforcement of a foreign judicial decision on the basis of a federal law means that a new ground for such recognition and enforcement must be consolidated in separate federal laws[7].

However, the only example mentioned is the Federal Law "On Insolvency (or Bankruptcy)" of 26 October 2002, as amended[8], where Article 1(6) provides: Decisions of courts of foreign States with regard to cases concerning insolvency (or bankruptcy) shall be recognized on the territory of the Russian Federation in accordance with international treaties of the Russian Federation. In the absence of international treaties of the Russian Federation decisions of courts of foreign States with regard to cases concerning insolvency (or bankruptcy) shall be recognized on the territory of the Russian Federation on the principle of reciprocity unless provided otherwise by a federal law[9]. This provision of the bankruptcy legislation refers only to "recognition" of a foreign judicial decision, and not to enforcement. Moreover, the principle of reciprocity is applied only to a narrow group of foreign judicial decisions rendered in cases of insolvency or bankruptcy.

The procedure for the recognition and enforcement of a foreign judicial decision in Russia and Belarus is

[5] Arbitrazh court of the Ural District in Decree of 9 July 2018 № Ф09-2438/18, Case № А50-37421/2017 gave the following explanation: the actual content of the rule of Article 241(1), Code of Arbitrazh Procedure is as follows: judicial decisions of foreign states taken with regard to the essence of the dispute are subject to recognition and enforcement. The Code of Arbitrazh Procedure does not provide for enforcement of other decisions or acts of courts of foreign States taken by them prior or after consideration of the dispute on merits. The rules of the Code of Arbitrazh Procedure shall be applied only to final decisions taken upon consideration of the dispute on a concrete subject and on concrete grounds on the basis of analysis of all the evidence in the course of a full court procedure. Rulings of foreign courts on application of interim measures (both preliminary ones and protective) are not subject to recognition and enforcement on the territory of the Russian Federation as they are not final judicial acts. Available on "ConsultantPlus".

[6] See: National Legal Internet Portal of the Republic Belarus, 10.01.2015, item 6/1464; 05.10.2017, item 6/1616. According to point 4 of the Plenum Decree, international treaties on the recognition and enforcement of foreign court decisions apply only to the participating States. Priority is given to those international treaties that entered into force later, unless otherwise provided by the international treaty. If there are also bilateral treaties or special agreements between the parties to multilateral treaties on the recognition and enforcement of foreign court decisions, the relevant rules of bilateral treaties or special agreements should apply.

[7] See: *Litvinskii D.V.* «Исполнить нельзя отказать»: еще раз к вопросу о возможности приведения в исполнение решений иностранных судов на территории Российской Федерации в отсутствие международного договора ["Never Refuse Enforcement": Once More on the Question of Enforcing Decisions of Foreign Courts on the Territory of the Russian Federation in the Absence of an International Treaty] // Вестник ВАС РФ [Herald of the Supreme Arbitrazh Court of the Russian Federation], No. 4–5 (2006); *Malysheva V.G.* Признание и принудительное исполнение иностранных судебных решений на основе принципа взаимности. Подходы судебной практики [Recognition and Enforcement of Foreign Judicial Decisions on the Basis of Reciprocity: Approaches of Judicial Practice] // Финансовая экономика [Financial Economy], No. 6 (2018); *Nasonov V.S.* Взаимность как основание для признания и исполнения решений судов Российской Федерации в иностранных государствах [Reciprocity as a Ground for Recognition and Enforcement of Decisions of Courts of the Russian Federation in Foreign States] // Вестник исполнительного производства [Herald of Enforcement Proceeding], No. 2 (2019), pp. 38–43; *Ushakova K.A., Dadayan E.V., Storozheva A.N.* Принцип взаимности как основание исполнения иностранных судебных решений [The Principle of Reciprocity as a Ground for Enforcement of Foreign Judicial Decisions] // Научные исследования XXI века [Scientific Studies of the XXI Century], No. 1 (2020), pp. 275–279.

[8] See: Comp. (2002), No. 43, item 4190. As of 02.01.2021.

[9] This provision of the 2002 Law has not been subsequently amended. See: Russian company and commercial legislation / comp. a. ed., with transl. from Russian a. an introd., by W.E. Butler. Oxford, 2003, p. 367.

as follows. An application for recognition and enforcement of the decision of a foreign court is filed by the party to whose benefit the decision was rendered (hereinafter: recoverer) at the arbitrazh court of a subject of the Russian Federation or an economic court of the Republic Belarus at the location or place of residence of the debtor or, if the location or place of residence or location is unknown, at the location of property of the debtor. The application is filed in written form and must be signed by the recoverer or the representative thereof (Article 242(1–2), Code of Arbitrazh Procedure; Article 246(1–2), Code of Economic Procedure). The said application also may be filed by filling out the form placed on the official Internet site of the arbitrazh court in accordance with the Russian legislation.

To the application for recognition and enforcement of the decision of a foreign court are attached: duly certified copy of the decision of the foreign court whose recognition and enforcement is being sought; duly certified document confirming the entry of the foreign court decision into legal force if this is not indicated in the text of the decision itself (Article 242(3(2)), Code of Arbitrazh Procedure), or confirming that it is subject to enforcement prior to its entry into legal force, if it is not indicated in the text of the decision (Article 246(5(2)), Code of Economic Procedure); document duly certified confirming that the debtor was notified in a timely manner and in the proper form about the examination of the case in the foreign court whose recognition and enforcement is being sought; power of attorney or other document duly certified and confirming the powers of the person who signed the application for recognition and enforcement in the arbitrazh or economic court; and a document confirming the sending to the debtor of the copy of the application for recognition and enforcement of the decision of the foreign court; and a certified translation of the said documents into the Russian language or into one of the state languages of the Republic Belarus (Article 242(3), Code of Arbitrazh Procedure; Article 246(5), Code of Economic Procedure).

Consideration of Recognition and Enforcement. The application for recognition and enforcement of a foreign court decision is considered by a judge sitting alone within a period not exceeding one month from the day of receipt thereof in the arbitrazh court of a subject of the Russian Federation or an economic court of the Republic Belarus under the rules of the Code of Arbitrazh Procedure or the Code of Economic Procedure, unless provided otherwise by an international treaty of Russia and Belarus[10]. The court notifies the persons participating in the case about the time and place of the judicial session. The failure of the said persons to appear duly notified about the time and place of the judicial session is not an obstacle to consideration of the case. When considering a case, the court establishes in judicial session the presence or absence of grounds to recognize and enforce a foreign court decision by investigating the evidence submitted to the court, the grounds of the claims and objections, and also the explanations of the foreign court which rendered the decision if the court demands and obtains such explanations. When considering the case, the arbitrazh or economic court does not have the right to review the foreign court decision in substance (Article 243, Code of Arbitrazh Procedure; Article 247, Code of Economic Procedure).

The arbitrazh or economic court renders a ruling with regard to the results of consideration of the application concerning recognition and enforcement of the decision of the foreign court that must contain:

(1) the name and location of the foreign court which rendered the decision;

(2) the names of the recoverer and debtor;

(3) the information concerning the decision of the foreign court whose recognition and enforcement is being sought;

(4) an indication that the recognition and enforcement is granted or an indication that recognition and enforcement is refused (Article 245(1–2), Code of Arbitrazh Procedure; Article 249(1–2), Code of Economic Procedure).

The ruling of the arbitrazh court may be appealed by way of cassation to the arbitrazh court of a district within one month from the day of rendering the ruling (Article 245(3), Code of Arbitrazh Procedure). The ruling of the economic court enters into legal force from the moment of being rendered and may be appealed to a court of cassational or supervisory instance (Article 249(3), Code of Economic Procedure). The decision of the foreign court is enforced on the basis of a writ of execution issued by the arbitrazh court which rendered the ruling to recognize and enforce it in the procedure provided by the Code of Arbitrazh Procedure and the Federal Law "On an Execution Proceeding" of 2 October 2007, as amended[11] (Article 246, Code of Arbitrazh Procedure)[12] or on the basis of documents of execution issued by the economic court which rendered the ruling to recognize and enforce (Article 250, Code of Economic Procedure). The foreign court decision may be filed for enforcement within a period not exceeding three years from the day of entry into legal force. If the said period lapses, it may be renewed by an arbitrazh

[10] See: *Kostin A.A.* Вопросы действительности соглашения о международной подсудности на этапе признания и приведения в исполнение иностранного судебного решения [Questions on Validity of the Agreement on International Jurisdiction at the Stage of Recognition and Enforcement of a Foreign Judicial Decision] // Арбитражный и гражданский процесс [Arbitrazh and Civil Procedure], No. 5 (2014), pp. 49–53.

[11] See: Comp. (2007), No. 41, item 4849. As of 01.01.2021.

[12] Translated in W.E. Butler. Russian Public Law (3d ed.; 2013), pp. 456–526.

court or economic court upon the petition of the recoverer (Article 246(2), Code of Arbitrazh Procedure; Article 250(2), Code of Economic Procedure).

Refusal to Recognize or Enforce. A refusal to recognize and enforce a foreign judicial decision is permitted in the following instances, the list being exhaustive both in Russian[13] and Belarus legislation (Article 244, Code of Arbitrazh Procedure; Article 248, Code of Economic Procedure).

(1) the decision according to the law of the State on whose territory it was rendered has not entered into legal force (Article 244(1(1)), Code of Arbitrazh Procedure), yet an international treaty of Belarus not allowing recognition and enforcement until entry into force (Article 248(1(1)), Code of Economic Procedure);

(2) the party against whom the decision was adopted was not notified in a timely manner and duly about the time and place of consideration of the case or for other reason could not submit his explanations to the court[14];

(3) the consideration of the case in accordance with an international treaty of the Russian Federation or the Republic Belarus or federal law is relegated to the exclusive jurisdiction of an arbitrazh court in the Russian Federation or an economic court of the Republic Belarus;

(4) there is a decision of a court in the Russian Federation or the Republic Belarus which has entered into legal force and has been rendered with regard to the dispute between the same persons, on the same subject-matter, and on the same grounds;

(5) a case is under consideration of a court in the Russian Federation or the Republic Belarus with regard to a dispute between the same persons, concerning the same subject-matter, and on the same grounds, the proceedings regarding which were instituted before institution the proceedings regarding the case in a foreign court, or the court in the Russian Federation or the Republic Belarus first accepted for proceedings the application regarding the dispute between the same persons, the same subject-matter, and on the same grounds;

(6) the limitation period expired for bringing the decision of the foreign court for enforcement and this period is not reinstated by an arbitrazh court;

(7) the enforcement of the decision of the foreign court would be contrary to public policy of the Russian Federation or the Republic Belarus[15].

Public Policy. With regard to public policy, the Presidium of the Supreme Arbitrazh Court of the Russian Federation issued Information Letter No. 156 "Survey of the Practice of Consideration by Arbitrazh Courts of Cases Concerning the Application of Public Policy as the Grounds for Refusal to Recognize and Enforce Foreign Judicial Decisions and Arbitral Awards" on 26 February 2013 (hereinafter: Information Letter No. 156). One important virtue of this document was the formulation of a concept of "public policy", understood as the "fundamental legal principles which possess the highest imperativeness, universality, and special social and public significance, and comprise the basis of the structure of the economic, political, and legal

[13] See: *Zakirova I.I.* О некоторых основаниях к отказу в признании и приведении в исполнение актов иностранных судов в Российской Федерации [On Certain Grounds for Refusal to Recognize and Enforce Acts of Foreign Courts in the Russian Federation] // Арбитражный и гражданский процесс [Arbitrazh and Civil Procedure], No. 11 (2017). The Arbitrazh Court of the Urals District in a Decree of 28 January 2019, No. Ф09-7920/18 re: A50-25299/2018 specially emphasized that Article 244(1) of the Code of Arbitrazh Procedure contains an exhaustive list of grounds for refusal to recognize and enforce a decision of a foreign court on the territory of Russia. Available on Consultant Plus. See also: *Abyshko A.O.* Отдельные вопросы признания и исполнения иностранных судебных решений в России [Certain Issues of Recognition and Enforcement of Foreign Judicial Decisions in Russia] // Вестник Университета им. О.Е. Кутафина (МГЮА) [Herald of Kutafin University (MSLA)], No. 10 (2019), pp. 192–198.

[14] See: *Kostin A.A.* Надлежащее и своевременное извещение ответчика как условие признания и исполнения решения иностранного суда (анализ ч. 1 ст. 244 АПК РФ и ч. 1 ст. 412 ГПК РФ) [Due and Timely Notification of the Defendant as Condition of Recognition and Enforcement of Decision of Foreign Court (Analysis of Article 244(1) of the Code of Arbitrazh Procedure of the Russian Federation and Article 412(1) of the Code of Civil Procedure of the Russian Federation)] // Закон [Law], No. 4 (2017). According to the Survey of Judicial Practice of the Supreme Court of the Russian Federation No. 3 (2019), notification of litigation in a foreign court is proper, if the procedure of notification is complied with and if this procedure is established by norms of international treaties, or an evidence of effective (actual) notification of a party to court proceedings in a foreign court is provided (evidence is provided that the party knew about this trial) (point 55). Available on "ConsultantPlus".

[15] See: *Demirchian V.V.* Некоторые особенности применения оговорки о публичном порядке российскими судами [Some Peculiarities of Application of the Public Policy Clause by Russian Courts] // Гуманитарные, социально-экономические и общественные науки [Humanities, Socio-Economic, and Social Sciences], No. 10 (2017), pp. 106–109; *Mukhametshin A.E., Sarvarov D.M.* Категория «публичный порядок» в контексте применения норм глав 30 и 31 АПК РФ в российской судебной практике [Category of "Public Order" in the Context of Application of Norms of Chapters 30 and 31 of the RF Code of Arbitrazh Procedure in Russian Judicial Practice] // Закон [Law], No. 7 (2019), pp. 92–103; *Osipov A.O.* О разграничении оговорки о публичном порядке и схожего основания для отказа в выдаче экзекватуры на решения иностранных судов в арбитражном процессе [On Differentiation of the Public Policy Clause and Similar Grounds for Refusal to Issue an Exequatur for Decisions of Foreign Courts in an Arbitrazh Proceeding] // Арбитражный и гражданский процесс [Arbitrazh and Civil Procedure], No. 10 (2017), pp. 33–37; *Salomov I.I.* Соотношение оговорки о публичном порядке и других категорий, ограничивающее применение норм иностранного права [Correlation of Public Policy Clause and Other Categories Limiting the Application of Norms of Foreign Law] // Правовая жизнь [Legal Life], No. 3 (2017), pp. 99–111; *Stepanenko E.K.* Обзор судебной практики: последствия применения иностранных санкционных норм [Survey of Judicial Practice: Consequences of Application of Foreign Sanctions Norms] // Вестник Арбитражного суда Московского округа [Herald of the Arbitrazh Court of the Moscow District], No. 2 (2019), pp. 74–81.

system of the State". Among such principles is prohibition to perform actions expressly prohibited by overriding mandatory norms of the legislation of Russia (Article 1192, Civil Code) if these actions prejudice the sovereignty or security of the State, affect the interests of large social groups, or violate the constitutional rights and freedoms of private persons.

An arbitrazh court refuses to recognize and enforce foreign judicial decision also on its own initiative, not only upon the petition of the defendant as an interested party. The party in declaring that recognition and enforcement of a foreign judicial decision would be contrary to the public policy of Russia must substantiate the existence of such a contradiction. In turn, the evaluation by the arbitrazh court of the consequences of enforcing a foreign judicial decision on the subject-matter of a violation of the public policy of Russia should not lead to a review of the foreign judicial decision in substance (points 1–3, Information Letter No. 156)[16]. The provisions of this document were analyzed and developed in Decree of the Plenum of the Supreme Court of the Russian Federation No. 24 "On application of rules of private international law by the courts of the Russian Federation" of 9 July 2019[17]. With regard to the concept of "public policy" it confirmed that the absence in Russian law of certain private-law norms and/or institutes widely used in foreign legal systems cannot serve as a ground for application of the public policy clause.

Procedural practice relating to cases concerning the recognition and enforcement of foreign judicial decisions was generalized in Information Letter of the Supreme Arbitrazh Court of the Russian Federation No. 96 "Survey of Practice of Consideration by Arbitrazh Courts of Cases Concerning the Recognition and Enforcement of Decisions of Foreign Courts, Contesting Awards of Arbitration Courts, and Issuance of Writs of Execution for Awards of Arbitration Courts" of 22 December 2005 issued by the Supreme Arbitrazh Court of the Russian Federation[18] (hereinafter: Information Letter of the Supreme Arbitrazh Court No. 96). The most important conclusions set out in this Information Letter were as follows:

(1) an arbitrazh court when considering an application to recognize and enforce the decision of a foreign court does not have the right to review the decision of the foreign court in substance (point 4);

(2) the arbitrazh court when considering the question of notifying the party against which the decision was rendered verifies whether the party was deprived of the possibility of defense in connection with the absence of actual and timely notification about the time and place of consideration of the case (point 6);

(3) the arbitrazh court renders a ruling to recognize and enforce the decision of a foreign court provided that this decision has entered into legal force in accordance with legislation of the State on whose territory it was adopted (point 7);

(4) the arbitrazh court has the right to refuse to recognize and enforce a foreign judicial decision if it establishes that this decision was rendered with regard to a dispute relegated to the exclusive competence of arbitrazh courts in the Russian Federation (point 8);

(5) the arbitrazh court renders a ruling to satisfy the application to enforce the decision of a foreign court if the means for enforcing the decision provided in the resolutive part is not contrary to the public policy of the Russian Federation (point 31).

The procedural practice of Belarus with regard to considering cases concerning the recognition and enforcement of a foreign court decision was summarized in the Decree of the Plenum of the Supreme Court of the Republic Belarus, No. 18, "On the Application by Courts of Legislation on the Recognition and Enforcement of Decisions of Foreign Courts and Foreign Arbitral Awards" of 23 December 2014, as amended (hereinafter: Plenum Decree No. 18)[19]. The most important conclusions of the Plenum were as follows:

(1) respective norms of bilateral treaties or special agreements must be applied when there are multilateral treaty provisions on recognition and enforcement of foreign courts as well as bilateral treaties and special agreements (point 4);

(2) when determining the court to whose jurisdiction the authorization of an application concerning recognition and enforcement of a foreign court decision is relegated, the character of the dispute and the participants should be taken into account. In particular, the recognition and enforcement of decisions of foreign courts with regard to disputes with the participation of juridical persons and individual entrepreneurs connected with economic activity are settled by courts which consider economic cases. When

[16] See: *Kurochkin S.A.* Комментарий к Обзору практики рассмотрения арбитражными судами дел о применении оговорки о публичном порядке как основания отказа в признании и приведении в исполнение иностранных судебных и арбитражных решений [Commentary on the Survey of the Practice of Consideration by Arbitrazh Courts of Cases Concerning the Application of Public Policy as the Grounds for Refusal to Recognize and Enforce Foreign Judicial Decisions and Arbitral Awards] // Вестник ФАС Уральского округа [Herald of Federal Arbitrazh Court of the Urals District], No. 3 (2013), pp. 32–51.

[17] See: Bulletin of the Supreme Court of the Russian Federation, No. 10 (2019). See also: *Asoskov A.V.* Новое Постановление Пленума Верховного Суда РФ о применении норм международного частного права: ключевые разъяснения [The New Decree of the Plenum of the Supreme Court of the RF on Application of Norms of Private International Law: Key Explanations] // Судья [Judge], No. 11 (2019), pp. 12–19.

[18] See: Вестник ВАС РФ [Herald of the Supreme Arbitrazh Court of the Russian Federation], No. 3 (2006).

[19] See: National Legal Internet Portal of the Republic Belarus, 10 January 2015, 6/1464; 5 October 2017, No. 6/1616.

the debtor does not have a place of residence or location on the territory of Belarus or property belonging to him, the court has the right to return the application for recognition and enforcement of the foreign court decision without consideration (point 8);

(3) when considering an application, a Belarus court is confined to establishing that the conditions of an international treaty have been complied with. The Belarus court does not have the right to evaluate the legality and basis of the foreign court decision. The List of grounds for refusing to recognize and enforce foreign court decisions has been established by Article 248 of the Code of Economic Procedure and international treaties of Belarus. If the applicable international treaty contains rules which differ from procedural legislation as to grounds for refusing to recognize the foreign judicial decision, the court should be guided by the List in the international treaty (point 11);

(4) information concerning the timely and proper delivery to the debtor of the summons to court is submitted by the person who applies for recognition and enforcement of the foreign court decision or who objects to recognition. When necessary, the court considering the application or objection has the right to demand and obtain additional evidence of timely and due notification of the debtor. In discussing the question of the timely delivery to the debtor of the summons in a foreign court, it is necessary to verify whether he was informed so that he had sufficient time to prepare for the case as well as to appear in court (point 12);

(5) applications for recognition and enforcement of foreign court decisions, and also objections against such recognition, are considered in an open judicial session with notification of the time and place of the judicial examination to the debtor, and in instances provided by legislation – also to the recoverer. Their failure to appear at the judicial session without justifiable reasons is not an obstacle to consideration of the case. In the course of the judicial examination, the court establishes the presence or absence of grounds for a refusal to recognize the foreign court decision, including hearings of explanations of the debtor and investigation of the documents submitted. The duty to submit evidence lies with the debtor (point 15);

(6) a court shall render a reasoned ruling with regard to the substance of the application or objection received which satisfies the requirements of Articles 213 and 249 of the Code of Economic Procedure. The ruling on recognition and enforcement may not change the content of the foreign court decision (point 17).

Foreign Judicial Decisions Not Requiring Enforcement. An innovation in Russian procedural law is the provision that foreign judicial decisions not requiring enforcement may be recognized. According to Article 245[1] of the Code of Arbitrazh Procedure, decisions of foreign courts not requiring enforcement are recognized in the Russian Federation if their recognition is provided for by an international treaty of the Russian Federation or by a federal law[20]. Such decisions are recognized in the Russian Federation without any further proceedings if there are not objections on the part of an interested person. The interested person within one month after the decision of the foreign court became known to him may declare objections relating to recognition of this decision in an arbitrazh court of a subject of the Russian Federation at the location or place of residence of the interested person or the location of the property thereof, and if the interested person has not place of residence, location, or property in the Russian Federation, at the Arbitrazh Court of the City of Moscow. The application of an interested person concerning objections against a foreign judicial decision is filed in written form and must be signed by the interested person or representative thereof (hereinafter: application). The said application may be filed by filling in the form placed on the official Internet site of the arbitrazh court[21].

The application is considered within a period not exceeding one month from the day of receipt thereof in the arbitrazh court. When considering the application, the arbitrazh court has the right to enlist to participate in the case persons with respect to whose rights and duties the decision of the foreign court was rendered, with prolongation of the period for consideration of this application. The failure of the said persons to appear duly notified about the time and place of the judicial session, and also of an interested person, does not prevent consideration of the case. The arbitrazh court will refuse to recognize the decision of the foreign

[20] See: *Fokin E.A., Shaikhutdinova A.I.* Последующий судебный контроль иностранных судебных решений, не требующих принудительного исполнения [Further Judicial Control of Foreign Judicial Decisions Not Requiring Enforcement] // Вестник экономического правосудия РФ [Herald of Economic Justice of the Russian Federation], No. 10 (2020), pp. 4–16; *Kostin A.A.* К вопросу о признании иностранных судебных решений по экономическим спорам, не требующих принудительного исполнения (научно-практический комментарий к статье 245.1. АПК РФ [On the Question of Recognition of Foreign Judicial Decisions Relating to Economic Disputes Not Requiring Enforcement (Scientific-Practical Commentary to Article 245[1], the Code of Arbitrazh Procedure of the Russian Federation] // Журнал росс. права [Journal of Russian Law], No. 5 (2017), pp. 119–128; *Kostin A.A.* Признание и исполнение иностранных судебных решений (история вопроса и современные перспективы) [Recognition and Enforcement of Foreign Judicial Decisions (History of Question and Contemporary Prospects)] // Вестник гражданского процесса [Herald of Civil Procedure], No. 5 (2018), pp. 245–268.

[21] To the application are attached: duly certified copy of the decision of the foreign court objections against which are declared by an interested person; power of attorney or other document duly certified and confirming the powers of the person who signed the application to the arbitrazh court; a document confirming payment of the state fee for filing of the application in the amount provided for by the federal law for non-material statement of claim; and a certified translation of the said documents into the Russian language (Article 245[1](7), Code of Arbitrazh Procedure).

court on the grounds set out above and provided by Article 244(1(1–5),7) of the Code of Arbitrazh Procedure. The ruling of the arbitrazh court in a case concerning recognition of the decision of a foreign court not requiring enforcement may be appealed by way of cassation to the arbitrazh court of a district within one month from the day of rendering the ruling (Article 245[1], Code of Arbitrazh Procedure).

The procedure for recognition and enforcement of foreign judicial decisions apart from the Code of Arbitrazh Procedure and the Code of Economic Procedure is consolidated in international treaties of Russia and Belarus. The procedure for the recognition and enforcement of foreign judicial decisions is set out in multilateral and bilateral international treaties in addition to the procedural legislation of the countries concerned. The Minsk Convention, for example, contains Section III, "Recognition and Enforcement of Decisions"[22], and there are analogous provisions in the Kiev Agreement[23].

The term "decision" in international civil procedure the Minsk Convention understands to be the decision of "justice institutions" in civil and family cases, including amicable agreements confirmed by a court in such cases and notarial acts with respect to monetary obligations (hereinafter: decisions). Decisions rendered by justice institutions of each of the Contracting States and which have entered into legal force and by their nature not requiring enforcement are recognized on the territories of other Contracting States without a special proceeding provided that:

(1) justice institutions of the requested Contracting State have not previously rendered a decision with regard to this case which has entered into legal force;

(2) the case according to the Minsk Convention, or in instances not provided by it but according to the legislation of the Contracting State on whose territory the decision should be recognized, is not relegated to the exclusive jurisdiction of the justice institutions of that Contracting State (Article 52, Minsk Convention).

A petition to authorize enforcement of a foreign judicial decision is filed in a competent court of the Contracting State where the decision should be enforced. It may also be filed in a court which rendered the decision at first instance in the case. This court sends the petition to a court competent to render the decision with regard to the petition. There must be appended to the petition:

(a) the decision or attested copy thereof, and also an official document concerning the fact that the decision has entered into legal force and is subject to enforcement, or that it is subject to enforcement before entry into legal force if this does not follow from the decision itself;

(b) a document from which it follows that the party against which the decision was rendered and did not take part in the proceedings was duly and timely summoned to court, and in the event of lacking procedural dispositive legal capacity, was duly represented;

(c) the document confirming partial enforcement of the decision at the moment of sending thereof;

(d) the document confirming agreement of the parties in cases of contractual jurisdiction.

A petition to authorize enforcement of a foreign judicial decision and the appended documents must be accompanied by an attested translation into the language of the requested Contracting State or into the Russian language (Article 53, Minsk Convention). Petitions concerning the recognition and authorization for enforcement are considered by courts of the Contracting State on whose territory the enforcement is to be undertaken. The court considering the petition to recognize and authorize enforcement of a foreign judicial decision is limited to establishing that the conditions provided by the Minsk Convention have been complied with. If the conditions have been observed, the court renders a decision to enforce[24].

The procedure for enforcement is determined by the legislation of the Contracting State on whose territory enforcement should be undertaken (Article 54, Minsk

[22] See: *Egorov A.A.* Признание и исполнение судебных решений стран – участниц Минской конвенции СНГ [Recognition and Enforcement of Judicial Decisions of States – participants of the Minsk Convention of the CIS] // Законодательство и экономика [Legislation and Economics], No. 12 (1998), pp. 37, 38.

[23] At present, multilateral agreements in the sphere of civil procedure continue to operate within the Eurasian Economic Union, including those concluded within the Commonwealth of Independent States. So far no trend is in evidence to simplify proceedings for the recognition and enforcement of foreign court decisions or to move to an "open" model, which one might expect against the background of Eurasian integration. See: *Branovitskii K.L., Alenkina N.V.* Правовой режим признания и приведения в исполнение иностранных судебных решений в Евразийском экономическом союзе [Legal Regime of the Recognition and Enforcement of Foreign Judicial Decisions in the Eurasian Economic Union] // Вестник гражданского процесса [Herald of Civil Procedure], No. 6 (2018), pp. 168–192.

[24] The Supreme Court of the Russian Federation in a Ruling of 4 October 2011, Re: Case No. 13-Г11-12, pointed out that in accordance with Articles 53 and 54 of the Minsk Convention a court considering a petition to recognize and authorize enforcement of a foreign judicial decision is confined to establishing that the conditions provided by the Minsk Convention have been complied with. In the event of compliance with the conditions, the court renders a decision for enforcement of the decision of the foreign court. Such judicial practice was formed long ago and is stable: for example, the Novosibirsk Regional Court in a cassational ruling of 7 August 2018 Re: Case No. 33-7749/2018, pointed out that Article 54(2) of the Minsk Convention established as the following: a court considering a petition concerning the recognition and authorization of enforcement of a decision is confined to the establishment that the conditions provided by the present Minsk Convention have been observed. If the conditions have been observed, the court renders a decision concerning enforcement of the foreign judicial decision. Available on "ConsultantPlus".

Convention)[25]. Refusal to recognize or authorize the enforcement of a foreign judicial decision may occur if:

(a) in accordance with legislation of the Contracting State on whose territory the foreign judicial decision was rendered, it has not entered into legal force and is not subject to enforcement, except for instances when the decision is subject to enforcement before entry into legal force;

(b) the defendant did not take part in the proceedings because he or an empowered person was not duly and timely summoned to court[26];

(c) with regard to a case between the same parties, on the same subject-matter, and on the same grounds on the territory of the Contracting State where the decision should be recognized and enforced, a decision already rendered which has entered into legal force or has been recognized by a judicial decision of a third State, or if proceedings with regard to the case were previously instituted by an justice institution of this Contracting State;

(d) according to the Minsk Convention and also in instances not provided by it, according to legislation of the Contracting State on whose territory the decision was recognized and enforced, the case is relegated to the exclusive jurisdiction of its institution;

(e) the document confirming the agreement of the parties to the case to contractual jurisdiction is absent;

(f) the limitation period for enforcement provided by legislation of the Contracting State whose court enforces the decision has expired (Article 55, Minsk Convention).

Under the Kiev Agreement (Article 7), the parties assumed the obligation to reciprocally recognize and enforce decisions of competent courts which have entered into legal force. The Kiev Agreement refers to "decisions rendered by competent courts of one Contracting State – Party to the Commonwealth of Independent States subject to enforcement on the territory of other Contracting States – Parties to the Commonwealth of Independent States". This formulation means that the Kiev Agreement does not provide for a judicial proceeding concerning the authorization of enforcement. In this connection a petition to enforce the decision by an interested party may not be regarded as a petition for authorization of enforcement.

Therefore, among the documents to be appended to a petition (duly attested copy of the decision concerning whose enforcement the petition was initiated; official document that the decision has entered into legal force if this is not evident from the text of the decision itself; evidence of notification of the other party about the proceedings) also is a writ of execution (Article 8)[27]. The Kiev Agreement merely provides for a judicial proceeding with regard to a refusal to enforce a decision at the request of the party against whom it was rendered and consolidates the list of evidence which must be submitted to the competent court at the place where enforcement is requested. Among such evidence is:

(a) a court of the requested State has previously rendered a decision with regard to a case between the same parties, on the same subject-matter, and on the same grounds and it has entered into legal force;

(b) there is a recognized decision of a competent court of a third State which is or is not a member of the Commonwealth of Independent States concerning a dispute between the same parties, the same subject-matter, and on the same grounds;

(c) the dispute was resolved by a court which did not have jurisdiction[28];

(d) the other party was not notified about the proceedings[29];

[25] The norm means that if enforcement is authorized in Russia or Belarus, the provisions of Chapter 31 (the Code of Arbitrazh Procedure) or Chapter 28 (the Code of Economic Procedure) shall apply.

[26] The Arbitrazh Court of Moscow District in a Decree of 12 October 2017, Re: Case No. A40-11868/2017, noted that by virtue of Article 53(2) (b) of the Minsk Convention a document shall be attached to a petition to authorize enforcement of a decision from which it follows that the party against which the decision was rendered did not take part in the proceedings, was duly and timely summoned to court, and in the event of lack of procedural dispositive legal capacity was duly represented. Proceeding from a literal interpretation of the Minsk Convention, the court of first instance in this case concluded that Article 53(2)(b) of the Minsk Convention imperatively indicated the need to provide an autonomous document concerning due notification. Available on "ConsultantPlus".

[27] According to point 1 of the Information Letter of the Supreme Arbitrazh Court No. 96, in the event of the consideration by a Russian arbitrazh court of an application submitted by a recoverer for enforcement of a court decision rendered on the territory of a Contracting State – Party to the Kiev Agreement, in Russia – in the absence of an execution document mentioned in Article 8 of the Kiev Agreement, the court of first instance should leave the application without movement and establish a period during which the applicant should submit the execution document. In the event of his failure to submit within the established period, the court should return the application to the recoverer on the basis of Article 128(4) of the Code of Arbitrazh Procedure.

[28] The Arbitrazh Court of Moscow District in a Decree of 10 May 2018, Re: case No. A40-59275/2017, pointed out that the participation of a foreign person in a judicial examination and the absence of objections on his part relating to the competence of the arbitrazh court of the Russian Federation before the first application regarding the substance of the dispute confirms by his will consideration of the dispute by the said court. Consequently, a foreign person loses the right to refer to the absence of competence of the particular court (the rule of loss of the right to object) thereafter. Available on "ConsultantPlus".

[29] An Advisory Opinion of the Economic Court of the Commonwealth of Independent States, No. 01–1/4–13, of 26 April 2014, said that, in the opinion of the Court, in the context of this norm "notified about the proceedings" should be understood as actions directed towards informing (or notifying) a party about the judicial proceeding. Such actions within the framework of the Kiev Agreement are undertaken by competent courts and other agencies of Contracting States at the stage of considering the case in essence, including

(e) the three-year limitation period for submitting the decision for enforcement has expired (Article 9, Kiev Agreement).

The Kiev Agreement thus does not provide for a mandatory judicial proceeding with regard to the recognition and enforcement of a foreign judicial decision rendered by a competent court of a Contracting State, which means recognition and enforcement without a judicial proceeding[30]. In this context, a petition by a recoverer to enforce a judicial decision is equal to an application to institute an execution proceeding[31]. It should be noted that the Kiev Agreement provides for the possibility of executing judicial decisions not only by bailiffs, but also by other agencies designated by a court or by legislation of the place of enforcement. These agencies may be credit institutions possessing certain powers with respect to the property of the defendant against which execution may be levied by decision of a court.

The question naturally arises as to the correlation of the Minsk Convention and the Kiev Agreement. Both treaties regulate the recognition and enforcement of foreign judicial decisions on the territories of the CIS. In the view of T.N.ºNeshataeva, the Minsk Convention does not extend to the enforcement of decisions of economic or arbitrazh courts with regard to disputes connected with undertaking economic activity[32]. She came to that conclusion on the basis of Article 82 of the Minsk Convention, which provides that it does not concern provisions of other international treaties to which the Contracting States are parties. The Kiev Agreement is such an international treaty, being of a special character and regulating the settlement of only economic cases (cases arising from contractual and other civil-law relations between economic subjects or from their relations with State and other agencies) (Article 1)[33]. It should be emphasized once more, however, that reference here is made to decisions rendered or subject to enforcement on the territories of Georgia or Moldova, which are not parties to the Kiev Agreement, and in this event the Minsk Convention is applicable.

The same approach can be used in determining the correlation of the Kiev Agreement and the Moscow Agreement concluded between Russia and Belarus on 17 January 2001 on the Procedure for the Reciprocal Enforcement of Judicial Acts of Arbitrazh Courts of the Russian Federation and Economic Courts of the Republic Belarus[34] (hereinafter: Moscow Agreement).

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within the framework of mutual rendering of legal assistance. The burden of proof of improper notification lies on the party objecting to enforcement of the decision. However, the party petitioning for enforcement of the decision also by virtue of Article 8 of the Kiev Agreement is obliged to append evidence of proper notification of the other party concerning the proceedings to the petition for enforcement of the judicial decision (available online). The Arbitrazh Court of Moscow District in a Decree of 12 March 2020, Re: Case No. A40–165305/2018, noted that according to article 9 of the Kiev Agreement, enforcement of a decision of a competent court of a State party of the CIS may be refused at the request of the party against whom it is directed, only if it provides evidence to the competent court at the place where enforcement is sought that it was not notified of the process. Available on "ConsultantPlus".

[30] A Decree of the Federal Arbitrazh Court of the Northwestern District of 12 May 1997, No. A56-15024/96 emphasized that in accordance with Article 7 of the Kiev Agreement, Contracting States – Parties to the said Agreement mutually recognize and enforce decisions of competent courts which have entered into legal force. Decisions rendered by competent courts of one Contracting State are subject to enforcement on the territory of other Contracting States. Norms regulating the procedure for petitioning for recognition and enforcement of decisions of competent courts of one Contracting State in the courts of another Contracting State of the Kiev Agreement do not exist. Available on "ConsultantPlus".

[31] It should be noted that by a Decision of the Economic Court of the CIS, No. 1-1/1-16, "On Interpretation of Article 8 of the Agreement on the Procedure for the Settlement of Disputes Connected with the Effectuation of Economic Activity of 20 March 1992 in the Part of Recognition and Enforcement of Judicial Acts of Foreign States Adopted with Regard to Cases of an Order Proceeding", of 17 June 2016, judicial acts of Contracting States of the Kiev Agreement adopted with regard to the results of the consideration by way of an order proceeding (proceedings in cases concerning the rendering of an order for recovery) are not subject to recognition and enforcement within the framework of Article 8 of the said Agreement (available online).

[32] See: *Neshataeva T.N.* О признании и исполнении решений по хозяйственным спорам судов государств – участников СНГ на территории Российской Федерации [On the Recognition and Enforcement of Decisions Relating to Economic Disputes of Courts of States-Participants to the Commonwealth of Independent States on the Territory of the Russian Federation] // Журнал междунар. частного права [Journal of Private International Law], No. 2 (1997), p. 9.

[33] One should have in view that the Kiev Agreement regulates the recognition and enforcement of decisions only of courts having jurisdiction; that is, courts whose jurisdiction with regard to the settlement of a dispute in substance meets the criteria of Article 4 of the Agreement. Thus, a court considering a dispute in substance and rendering a decision subject to enforcement which is beyond the limits of its jurisdiction should possess dual jurisdiction: first, be competent according to procedural norms of its own national legislation, and second, be competent according to the requirements of Article 4 of the Kiev Agreement.

[34] See: Бюллетень международных договоров [Bulletin of International Treaties], No. 3 (2003), pp. 65–67. The Agreement entered into force on 29 July 2002. The Agreement is analyzed in, *Muranov A.I.* Новый порядок взаимного исполнения актов арбитражных судов России и хозяйственных судов Белоруссии. Соглашение от 17 января 2001 г.: значение и проблемы [New Procedure for Reciprocal Enforcement of Acts of Arbitrazh Courts of Russia and Economic Courts of Belorussia. Agreement of 17 January 2001: Significance and Problems] // Московский журнал междунар. права [Moscow Journal of International Law], No. 4 (2002), pp. 180–198; see also: *Dolgachev N.G., Sinyova N.A.* Роль международных договоров в системе признания и приведения в исполнение иностранных судебных актов на примере соглашения между Российской Федерацией и Республикой Беларусь о порядке взаимного исполнения судебных актов арбитражных судов Российской Федерации и хозяйственных судов Республики Беларусь от 17 января 2001 г. [The Role of International Treaties in the System of Recognition and Enforcement of Foreign Judicial Acts on the Example of the Agreement between the Russian Federation and the Republic of Belarus on the Procedure of Mutual

The provisions of the Moscow Agreement operate as *lex specialis* with respect to the Minsk Convention and the Kiev Agreement. It follows that judicial acts of competent courts of Russia and Belarus do not require a special procedure for recognition and are enforced in the same procedure as judicial acts of their own domestic courts on the basis of documents of execution issued by the courts which adopted the decision[35]. Competent courts are understood to be arbitrazh courts of the Russian Federation and courts of general jurisdiction considering economic cases of the Republic Belarus, the competence of which corresponds to the requirements of the Kiev Agreement (Article 4) and of the Moscow Agreement (Article 1).

It should be noted that, in elaboration of the Kiev Agreement and Minsk Convention, another treaty was concluded and it was especially devoted to the recognition and enforcement of judicial decisions with regard to economic disputes on the territory of the Commonwealth: the Moscow Agreement of the CIS on the Procedure for the Mutual Enforcement of Decisions of Arbitrazh and Economic Courts on the Territories of States – Participants of the Commonwealth, of 6 March 1998[36] (hereinafter: Moscow Agreement of the CIS). The Moscow Agreement of the CIS basically excludes a judicial proceeding with regard to a case concerning authorization of enforcement of a foreign judicial decision, which means that such a decision will be enforced equally with decisions of own courts by way of an execution proceeding in accordance with national legislation. The decision of a competent court of one Contracting State that has entered into legal force is enforced on the territory of another Contracting State in an uncontested proceeding (Article 3, Moscow Agreement of the CIS)[37].

In conclusion, we would like to stress again that in Russia and Belarus, three regimes operate and interact with regard to the recognition and enforcement of foreign judicial decisions: first, within the framework of bilateral treaties – as a rule, treaties on legal assistance with regard to civil, family, and criminal cases (Moscow Agreement); second, multilateral treaties (Kiev Agreement and Minsk Convention), applied to proceeding on cases with participation of natural and juridical persons from the States – members of the CIS or Georgia and Moldova; and third, the national legislation of each State (Code of Arbitrazh Procedure and Code of Economic Procedure), applied to proceeding on cases with participation of natural and juridical persons from the third States.

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[35] Plenum Decree No. 18 emphasized that courts need to take into account that in accordance with the Moscow Agreement, judicial acts of competent courts of the parties do not need a special procedure for recognition and are enforced in the same procedure as judicial acts of courts of their own State on the basis of documents of execution of courts which adopted the decision (point 6).

[36] See: The Moscow Agreement of the CIS entered into force on 9 January 2001. Neither Russia, nor Belarus has acceded to it. Информационный вестник Совета глав государств и Совета глав правительств СНГ «Содружество» [Information Herald of the Council of the Heads of States and the Council of the Heads of Governments of the CIS "The Commonwealth"].

[37] If Contracting States of a bilateral international treaty on mutual assistance are also parties to a multilateral treaty on mutual legal assistance, the court when considering a case to recognize and enforce the decision of a foreign court will apply the bilateral treaty, and with respect to legal relations not regulated by it – the multilateral treaty on mutual legal assistance. See: *Slabospitskii A.S.* Трансграничное исполнение судебных решений в сфере предпринимательской деятельности на территории Евразийского экономического союза [Cross-border Execution of Judicial Decisions in the Sphere of Entrepreneurial Activity on the Territory of the Eurasian Economic Union] // Росс. правосудие [Russian Justice], No. 9 (2017), pp. 72–75.

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