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UNIFORMIZATION OF MOLDOVAN JURISPRUDENCE REGARDING THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS – PREMISE FOR CONSOLIDATING LEGAL CERTAINTY

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Abstract
The Republic of Moldova has undertaken clear commitments regarding the improvement of the legal framework in the field of arbitration and alternative dispute resolution, both through the Strategy for ensuring the independence and integrity of the justice sector and through its European integration path assumed in the National action plan for accession to the European Union 2024-2027 and the RM-EU Association Agreement. The uniformization of judicial practice in the field of recognition and enforcement of foreign arbitral awards is a fundamental pillar for ensuring legal certainty, administering justice, and achieving sustainable development. International experiences demonstrate the utility of instruments for consolidating and uniformizing judicial and arbitral practice to enshrine the principles of international commercial arbitration in ordinary courts and to promote it as a preferred method for resolving cross-border commercial disputes. The last act of uniformizing judicial practice in the field of recognition and enforcement of foreign arbitral awards in the Republic of Moldova dates back a decade, with no subsequent actions taken in this regard. This paper aims to analyze the legal framework and current practice of the Republic of Moldova regarding the recognition and enforcement of foreign arbitral awards.
Keywords: *foreign arbitral award; recognition; enforcement; legal certainty.*
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1. INTRODUCTION

International arbitration is recognized as an essential method for resolving cross-border commercial disputes, offering flexibility, confidentiality, and specialized expertise. Its effectiveness crucially depends on the capacity of arbitral

awards to be recognized and enforced in various jurisdictions, an aspect largely guaranteed by the 1958 New York Convention.

The uniformization of judicial practice in applying the New York Convention is a fundamental pillar for ensuring legal certainty and creating a favorable investment climate. In the Republic of Moldova, although an adequate legislative framework exists, the quality and coherence of judicial practice in this area have, at times, posed challenges, being affected by the uneven application of the Convention.

Aware of this necessity, the Supreme Court of Justice of the Republic of Moldova adopted Plenum Decision No. 9 of December 9, 2013, amended by Decision No. 2 of April 25, 2016. This decision explicitly aimed to uniformize the practice of national courts regarding the recognition and enforcement of foreign judicial and arbitral awards. However, almost ten years after its initial adoption, the persistence of divergent interpretations and applications remains a relevant issue.

Advanced judicial practices in European Union member states, such as France and Germany, demonstrate a pro-arbitration approach and a restrictive interpretation of grounds for refusing enforcement, offering a model of predictability and efficiency. Correlated analysis of relevant jurisprudence and periodic publication of jurisprudential compendia, especially significant decisions of judicial review courts, represent an effective tool for disseminating uniform interpretations and applications of the New York Convention and national legislation. This endeavor would contribute to the dissemination of best practices, clarification of controversial aspects, and reduction of knowledge gaps, ensuring increased predictability in judicial decisions.

This paper aims to analyze the legal framework and current practice of the Republic of Moldova regarding the recognition and enforcement of foreign arbitral awards. It will assess the extent to which this practice contributes to consolidating legal certainty and supporting economic development, identifying best practices, challenges, and formulating concrete recommendations for greater uniformization.

2. DATA AND METHODOLOGY

For this analysis, a legal methodological approach will be used, combining normative and doctrinal study of international legal instruments and national legislation, with an in-depth analysis of domestic and international legal doctrine. The methodology also integrates elements of comparative analysis, examining best practices from jurisdictions with developed judicial systems in the field of arbitration. The research is based on legal sources at international and national levels, as well as on evaluating the impact of judicial decisions on the predictability and efficiency of the recognition and enforcement process. This composite methodology allows both conceptual exploration and the formulation

of practical recommendations for advancing uniform jurisprudence and a predictable legal climate.

1.1. International and national normative framework for the recognition and enforcement of foreign arbitral awards in the Republic of Moldova

The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (NYC, or the New York Convention) is often considered the "cornerstone" of the international commercial arbitration system, being qualified as the most successful multilateral treaty in legal and commercial matters, 67 years after its adoption. Professor Albert Jan van den Berg, one of the prominent figures in arbitral law, emphasizes that this convention revolutionized international practice by establishing a simple and efficient mechanism for the enforcement of arbitral awards. Thus, the New York Convention not only regulates the recognition and enforcement of arbitral awards but also establishes a legal paradigm promoting a proactive and positive approach by national courts in supporting international arbitration (Cojocaru and Lazăr, 2018). Adopted at the United Nations Conference on June 10, 1958, the Convention entered into force on June 7, 1959, and has subsequently been ratified by over 170 states, including the Republic of Moldova in 1998.

The essential principles regulated by the Convention include:

Principle of equal treatment: enshrined in Article III, it stipulates that contracting states undertake to recognize and enforce foreign arbitral awards without imposing more restrictive conditions than those applicable to their own domestic arbitral awards.

Principle of minimal procedural requirements: provided for in Article IV, it obliges the interested party to furnish the original or a certified copy of the arbitral award and the arbitration agreement, accompanied by certified translations if applicable.

Principle of exceptionality of grounds for refusal: established by Article V, which exhaustively lists the grounds for rejecting an application for recognition or enforcement, such as incapacity of the parties, invalidity of the agreement, lack of notification, violation of jurisdiction, or conflict with the public policy of the requested state.

A fundamental principle recognized in doctrine and jurisprudence is that of "*in favorem arbitrandum*," which promotes an extensive and favorable interpretation of the rules regarding the recognition and enforcement of arbitral awards (Lazăr and Plotnic, 2023).

1.2. The framework of the recognition and enforcement of the foreign arbitral awards in the Republic of Moldova

In the Republic of Moldova, the procedure for the recognition and enforcement of foreign arbitral awards is primarily regulated by the Civil

Procedure Code (CPC), Articles 475-476. These provisions faithfully reflect the requirements and standards of the New York Convention, establishing a clear and detailed procedure for admitting applications for recognition and enforcement, explicitly respecting the limits and principles of the international convention.

Complementary to the CPC, the Republic of Moldova also has Law No. 23/2008 on Arbitration, which provides the general framework and principles of domestic and international commercial arbitration. The Republic of Moldova is also a party to a series of bilateral and multilateral agreements on mutual legal assistance, but the New York Convention retains primacy and represents the mandatory standard for international arbitral awards.

1.3. Comparative aspects and the influence of the regional framework

Although arbitration is explicitly excluded from Brussels I bis Regulation (EU 1215/2012), this does not diminish the indirect relevance of the EU acquis and European jurisprudence in arbitration for the Republic of Moldova, especially in the context of its European integration aspirations. The jurisprudence of some member states, such as France and Germany, is often invoked as a benchmark in interpreting and applying the standards of the New York Convention, particularly concerning the notion of public policy and the limits of judicial control over arbitral awards.

The influence of the European Union also manifests through the jurisprudence of the Court of Justice of the European Union (CJEU), even if it does not have direct competence over the interpretation of the New York Convention (Gribincea, 2018). Also, the jurisprudence of the European Court of Human Rights (ECtHR), particularly concerning the guarantees of a fair trial through article 6 is fundamental. This can be invoked in the context of verifying compliance with public policy, ensuring that the arbitral procedure and, subsequently, the recognition and enforcement process, respect minimum standards of procedural fairness and access to justice.

At the European and international levels, various initiatives and instruments exist to promote uniformization and dissemination of best practices in arbitration. The ICCA Advisory Committee (International Council for Commercial Arbitration), for example, publishes reports and guides that offer clarifications and recommendations regarding the application of the New York Convention. Also, numerous renowned arbitral institutions and professional organizations develop and publish model rules, jurisprudential analyses, and thematic compendia (e.g., ICCA Yearbook Commercial Arbitration) that contribute to creating a common understanding and coherent practice globally.

Thus, the Republic of Moldova has the opportunity and necessity to closely follow European and international developments and best practices, adapting them to the national legal context to consolidate the uniformity of interpreting the norms of the New York Convention and implicitly relevant national legislation,

thereby contributing to strengthening legal certainty and national economic attractiveness.

3. ANALYSIS OF JUDICIAL PRACTICE IN THE REPUBLIC OF MOLDOVA

1.4. Evolution of judicial practice in the recognition and enforcement of arbitral awards

Over the last two decades, the judicial practice of the Republic of Moldova regarding the recognition and enforcement of international arbitral awards has undergone progressive development, reflecting both international trends and internal efforts to align with the standards of the 1958 New York Convention. As analyzed by Prof. Pierre Lalive, international commercial arbitration is "the work of practitioners, but also of judges and researchers" (Lalive, 1986). Therefore, the degree of uniformity in applying the 1958 New York Convention in any country, including the Republic of Moldova, can be considered a barometer of the effectiveness of international commercial arbitration. Thirty-one years after the adoption in 1994 of the first Law on arbitral proceedings in the Republic of Moldova, as an independent state, we can observe a gradual increase in the complexity of cases examined by national courts, indicating that international arbitration is playing a more prominent role in the commercial relations of parties with residency or interests in the Republic of Moldova.

The evolution of jurisprudence reflects a series of stages – from interpretative confusions and procedural errors to more nuanced solutions recently, consistent with international standards. General statistics indicate a high rate of admission of requests for recognition and enforcement, estimated at approximately 80% of requests being granted (Lazăr, 2018).

However, the history of judicial practice also reveals moments of uncertainty and initial divergences, marked by a blatant circumvention of the New York Convention's provisions. A landmark precedent in this regard is the decision of the Supreme Court of Justice of September 14, 2011, in case no. 2r-429/11, in the dispute with "*Merchant Outpost Company*". This case exemplified significant deficiencies in how recognition and enforcement requests were handled by trial and appellate courts, as well as how limited knowledge of the institution of international commercial arbitration was exploited in bad faith. The seized court admitted major violations in the application of the Convention's provisions and national legislation, demonstrating the precariousness of the judicial system and a public policy danger, as noted in the informative note and the final decision of the Supreme Court of Justice (Cojocaru and Lazăr, 2018, p. 179). This case generated the need for interventions in the civil procedure law, but through the explanatory decisions of the Supreme Court of Justice, aimed at guiding and providing comprehensive standards to the body of magistrates regarding the recognition and enforcement of foreign arbitral awards.

The analysis of recent decisions by the Chișinău Court of Appeal, the competent court for hearing requests for recognition and enforcement of foreign arbitral awards, and, in some cases, by the Supreme Court of Justice, illustrates a predominantly favorable approach to recognizing arbitral awards. However, in more complex cases, or those involving the state and its public authorities, we can conclude that the degree of erroneous and, at times, biased interpretations is much higher.

In certain cases, a non-conforming application of specific arbitration rules can be observed, situations in which the state or public authority is advantaged. In the case of SRL "*Badprim" v. Government of the Russian Federation*, the claimant, a commercial company headquartered in the Republic of Moldova, sought recognition and enforcement of an SCC arbitral tribunal award from Stockholm, pursuant to the Rules of the International Court of Arbitration of the Paris Chamber of Commerce and Industry, upheld by the Svea Court of Appeal in Sweden. In July 2016, the Chișinău Court of Appeal rejected the request on the grounds that "neither the Chișinău Court of Appeal nor any other court in the Republic of Moldova is competent" (Lazăr, 2018). The court explained that such an arbitral award obliging a foreign state to pay the indicated sums does not fall within its jurisdictional competence. In an appeal order in the same case, the Supreme Court of Justice held that "no court in the Republic of Moldova is competent to resolve such requests, otherwise the judicial act would blatantly affect the sovereignty of the Russian Federation, also violating the principle of territoriality of the act of justice." These treatments raise comments, as the ability of states and public legal entities to conclude an arbitration agreement, and thus be a party to arbitral disputes, is widely recognized. The participation of the state and public institutions in arbitration and their capacity to conclude arbitration agreements, referred to as "subjective arbitrability," is enshrined both by Article II para. (1) of the 1961 Geneva European Convention, ratified by the Republic of Moldova in 1997, the Washington Convention on the settlement of investment disputes between states and nationals of other states of March 18, 1965, as well as by national legislation and comparative jurisprudence. Through the famous decision *Galakis v. Tresorerie publique* (1966), the French Court of Cassation found that the prohibition of a state from appearing in arbitration is not applicable in the case of an international contract, thereby establishing a new rule of international public policy, which has become a principle applied uniformly in both ordinary law jurisprudence and arbitral practice (Cojocaru and Lazăr, 2018, p. 114).

The public policy refusal ground remains one of the most problematic limitations, its application not being consistent with international standards (ICCA, 2025) and the uniform practice analyzed in the explanatory Decision of the Supreme Court of Justice Plenum, as amended in April 2016 (SCJ, 2016). We can observe a clear deviation from the definition and interpretation of the concept

of public policy in these cases. When applying the public policy criterion for refusing recognition and enforcement of foreign arbitral awards, the court must refer to the concept of international public policy or private international law public policy. For the ground stipulated in Article V para. (2) lit. b) of the New York Convention to be upheld, the forum must find whether the infringements on public policy occur because of the recognition and enforcement of the foreign arbitral award and are not presumed from the essence of the foreign arbitral award. These violations and contraventions of the forum's public policy must be "evident, effective, and concrete" (Madden and Knoebel, 2022). In doctrine, most authors give the concept of public policy a restrictive interpretation, although there are also opinions favoring an extensive application of this ground (Lazăr, 2018).

Finally, we can conclude that, in result of the Plenum Decision of the Supreme Court of Justice of the Republic of Moldova "Regarding the practice of application by the courts of the legislation concerning the recognition and enforcement of foreign judicial and arbitral awards" no. 9 of December 9, 2013, with substantial amendments from April 25, 2016, the alignment with uniform standards regarding the recognition and enforcement of foreign arbitral awards in the Republic of Moldova has improved.

In the case of "Stork International GmbH (Germany) v. Agrofloris-Nord SRL" (SCJ, 2023), the Supreme Court of Justice rejected the debtor's appeal and confirmed the appellate court's decision regarding the recognition of the international arbitral award, reaffirming the principle of autonomy of the arbitral procedure. The Court emphasized that it lacked jurisdiction to rule on the merits of the dispute and that the existence of a valid arbitration agreement and proper notification of the parties were sufficient to admit the enforcement request. This solution is in full compliance with international jurisprudence and the spirit of the New York Convention. Similarly, in the case of "M. Gres v. W." (2022), the Supreme Court of Justice correctly confirmed the decisions of the lower courts, explicitly mentioning the fundamental principles of arbitration – especially the binding nature of the award and the impossibility of examining its merits (Court of Appeal Chișinău, 2022c). Thus, it was reiterated that national courts cannot substitute the authority of the arbitral tribunal in interpreting the agreement and resolving the dispute.

1.5. Interpretation of grounds for refusal of recognition and enforcement of foreign arbitral awards in the jurisprudence of the Republic of Moldova

The application of the grounds for refusal of recognition and enforcement of foreign arbitral awards, provided by Article V of the New York Convention and transposed into the Civil Procedure Code of the Republic of Moldova, is an area where courts must exercise caution, respecting the exhaustive nature of these grounds. In the practice of the Republic of Moldova, Moldovan courts have

variably interpreted these grounds, with oscillating tendencies between a restrictive approach, in the spirit of the Convention, and a more formalistic one, which can lead to the rejection of the enforcement request:

- **Lack of a valid arbitration agreement (Art. V(1)(a))**

A primary ground invoked by Moldovan courts for refusing enforcement is the absence or nullity of the arbitration agreement. In the case Just Us SRL (Romania) v. Air Moldova (2022), the Moldovan Supreme Court of Justice rejected the request for recognition and enforcement of an arbitral award rendered by the International Commercial Arbitration Court of Romania, citing the non-existence of a valid arbitration agreement (Court of Appeal Chișinău, 2022a).

The extensive interpretation of Article V(1)(a) ignored the rule of autonomy of the arbitration clause from the main contract (principle of severability) and contravened the restrictive approach promoted internationally.

- **Lack of proper notification (Art. V(1)(b))**

Article V(1)(b) of the New York Convention allows for the refusal of recognition and enforcement if the party against whom the award is invoked was not properly notified. In the case SRL "*Energoalians" v. SRL "Feren-M*" (2008) the Court of Appeal of the Republic of Moldova reasoned that the defendant was not legally summoned, "a fact that prevented the commercial company from the Republic of Moldova from defending its rights and expressing its opinion on the dispute."

Seized with an appeal, the Supreme Court of Justice overruled the Court of Appeal's decision as unfounded because the defendant had not provided evidence of improper summoning (Cojocaru and Lazăr, 2018, pp. 177-178).

These precedents indicate that the courts did not apply the international standard for assessing notification – based on criteria of efficiency and real possibility of participation – and treated this ground as an absolute formal error, affecting the predictability of practice.

- **Incapacity or lack of jurisdiction of the tribunal (Art. V(1)(c) NYC)**

Article V(1)(c) provides for the possibility of refusal if the tribunal exceeded the scope of the arbitration agreement. In the case *Just Us SRL v. Air Moldova* (Court of Appeal Chișinău, 2022a), the Court of Appeal invoked the alleged lack of jurisdiction of the tribunal, although there was no detailed analysis of its jurisdiction in relation to the arbitration clause. The court substituted its own analysis for that performed by the arbitral tribunal, violating the *kompetenz-kompetenz* principle. In contrast, in *Optimo Distribution SRL v. OT Solution Ltd* (UK) (2024), the Chisinau District Court correctly applied this principle, emphasizing that objections regarding jurisdiction should have been raised before the arbitral tribunal, and the courts do not have authority to re-examine this issue at the recognition stage (Court of Chisinau District, 2025).

- **Violation of public policy (Art. V(2)(b) NYC)**

The most sensitive and controversial ground for refusal remains public policy. In the jurisprudence of the Supreme Court of Justice, this ground is often invoked extensively, which contradicts its exceptional nature. In the case *Bio-Labs (Pvt) Ltd v. Dita EstFarm SRL* (Court of Appeal Chișinău, 2022b), the Court of Appeal refused enforcement of the award on the grounds that enforcement would allow the creditor to obtain an unjustified benefit and referred to the value of an administrative act violated during the delivery of goods subject to the contract. This analysis amounted to a review of the merits and indicates a broad interpretation of the public policy ground, inconsistent with generally accepted practice principles.

- **Merits of the dispute inadmissibly analyzed**

Although not expressly provided as a ground for refusal, review on the merits constitutes a violation of the principle of finality of arbitral awards. In several cases, the Supreme Court of Justice exceeded the limits of its role as a recognition court. The cases *Bio-Labs (Pvt) Ltd v. Dita EstFarm SRL* (Court of Appeal Chișinău, 2022b) are the most eloquent, where the court analyzed the validity of the claim, contrary to the rules on separation of powers.

The analysis of Moldovan jurisprudence regarding the refusal of recognition and enforcement of foreign arbitral awards reveals a non-uniform and often extensive application of the grounds for refusal provided by the New York Convention.

4. HARMONIZATION OF JURISPRUDENCE AND THE ROLE OF COURTS IN THE RECOGNITION AND ENFORCEMENT OF INTERNATIONAL ARBITRAL AWARDS

1.6. Doctrinal considerations and foundations of jurisprudential harmonization in international commercial arbitration

The harmonization of jurisprudence concerning the recognition and enforcement of international arbitral awards reflects a profound doctrinal and practical evolution in contemporary arbitration law.

The harmonization of jurisprudence, both at the level of state courts and arbitral tribunals, represents a necessary premise for ensuring legal certainty in the process of recognizing and enforcing international arbitral awards. Non-uniform application of the 1958 New York Convention can significantly affect the effectiveness of arbitration. The *in favorem arbitrandum* principle emphasizes the orientation towards maximum efficiency and effectiveness of the arbitration act, and legal certainty is a fundamental desideratum in this equation.

As Professor Gary Born emphasizes, "predictability is a fundamental ingredient of the rule of law, and the consistency of jurisprudence in international arbitration is essential for attracting foreign capital" (Born, 2021, p. 113).

Professor Gaillard stresses that international arbitration law functions as an autonomous system, with its own rules, principles, and jurisprudence. He advocates for the development of an "epistemic community" of practitioners and judges who apply the rules in a coherent and predictable manner. Harmonization is, in Emmanuel Gaillard's view, "the key to strengthening confidence in the international arbitral system" and guarantees that arbitral awards will not be refused enforcement for arbitrary or inconsistent reasons across different jurisdictions (Gaillard, 2010, pp. 18–21). Albert Van den Berg consistently advocated for a uniform and restrictive interpretation of Article V of the Convention, warning of the risk of "renationalization" of arbitration if courts expansively interpret concepts such as "public policy." In his classic article "The New York Convention of 1958: Towards a Uniform Judicial Interpretation," he pleads for the creation of convergent jurisprudence using comparative doctrine and jurisprudential collections (Van Den Berg, 1987, pp.155-202).

Authors Julian Lew, Loukas Mistelis, and Stefan Kröll – in *Comparative International Commercial Arbitration* (Lew *et al.,* 2003) – draw attention to the need for coherence in applying recognition and enforcement principles, emphasizing that harmonization contributes to reducing forum shopping and uncertainty. Similarly, Professor Jan Paulsson remarked that "persuasive precedent" functions as an informal mechanism for harmonization and stability, influencing the resolution of international disputes through constant references to decisions considered representative (Paulsson, pp. 89-101).

Doctrine highlights that, despite progress made through uniform law instruments such as the UNCITRAL Model Law and the 1958 New York Convention, national courts continue to face difficulties in their uniform interpretation and application, which can affect predictability and efficiency in the recognition and enforcement of foreign arbitral awards (Arp, 2020, p. 2). Harmonization is facilitated by the systematic use of similar norms and principles within arbitral tribunals and by promoting a common institutional framework (Garnett, 2000). This trend is supported by the philosophy of international arbitration, where party autonomy and the transnational nature of the legal regime prevail, and previous decisions of tribunals or foreign courts function as persuasive benchmarks, even in the absence of a strict rule of precedent (Béguin, 2009).

In this logic, legal certainty in the field of recognition and enforcement of arbitral awards is strengthened by the interaction between legislation, jurisprudence (Bělohlávek, 2013), and *soft law* instruments, all converging towards an increasingly uniform interpretation of relevant international standards (Dasser, 2021). Thus, in the absence of a formal system of precedent, the persuasive authority of foreign judgments functions as a functional substitute for the *stare decisis* rule in international arbitration. In support of the idea that the persuasive authority of foreign arbitral or judicial awards can function as a

functional substitute for the *stare decisis* rule in international arbitration, Professor Kaufmann-Kohler notes that arbitrators often resort to precedents not out of obligation, but to ensure the coherence and predictability of the system. She argues that "precedent in arbitration is not binding, but it is persuasive and critical to the development of a coherent legal framework" (Kaufmann-Kohler, 2007, p. 366).

1.7. International best practices and the contribution of global institutions and initiatives to the harmonization of jurisprudence in the recognition and enforcement of arbitral awards

The harmonization of judicial and arbitral practice is an essential element for consolidating the international credibility of arbitration and for creating a predictable standard regarding the recognition and enforcement of arbitral awards. At the international level, this process is supported by established arbitral institutions, as well as by intergovernmental organizations and multilateral professional initiatives that propose instruments, recommendations, and models of good practice. International arbitration centers such as the ICC (International Chamber of Commerce), LCIA (London Court of International Arbitration), SCC (Stockholm Chamber of Commerce), HKIAC (Hong Kong International Arbitration Centre), or VIAC (Vienna International Arbitral Centre) play a fundamental role in shaping coherent and predictable practice by developing modern procedural rules, publishing decisions (in anonymized form), and compiling thematic collections of jurisprudence.

For example, the ICC International Court of Arbitration in Paris regularly publishes selections of arbitral awards and reports on the reasons for arbitral decisions, thus contributing to an indirect form of precedent or soft law. Through the Guides and Explanatory Notes issued, the ICC actively contributes to the convergence of arbitral procedures and the formation of harmonized practice regarding the application of the New York Convention. It is noteworthy that the ICC's practice of encouraging arbitral tribunals to refer, when appropriate, to existing jurisprudence, thereby increasing the consistency of reasoning and encouraging an ecosystem of decisions with guiding value, even in the absence of a formal rule of precedent (ICC, 2021).

LCIA and HKIAC are also active in the field of transparency and decision coherence, providing statistical reports and summaries that allow for the analysis of trends in accepting or rejecting recognition and enforcement requests. VIAC has distinguished itself by integrating a European approach, adapted to EU law, which has facilitated the acceptance of its awards in European jurisdictions.

Another essential pillar of harmonization is the activity of UNCITRAL (United Nations Commission on International Trade Law), which has developed two fundamental instruments: the 1958 New York Convention and the UNCITRAL Model Law on International Commercial Arbitration (1985, with amendments in 2006). These provide not only uniform rules but also guidance for

interpretation. The implementation guides and interpretive reports published by UNCITRAL offer national courts and legislators a coherent interpretive compass, essential for harmonization.

The International Council for Commercial Arbitration (ICCA) represents one of the most important initiatives for promoting global harmonization. Through publications such as the *ICCA Yearbook Commercial Arbitration* or *ICCA Guides to the Interpretation of the New York Convention*, the organization provides analytical and comparative tools that directly contribute to reducing disparities in interpreting grounds for refusing recognition and enforcement. The *New York Convention Guide*, an interactive platform that provides access to global jurisprudence on recognition and enforcement, thematically classified and comparable across jurisdictions (UNCITRAL, 2016). This initiative provides courts with a direct and credible source of inspiration to base their decisions in a harmonized manner.

The harmonization of jurisprudence regarding the recognition and enforcement of arbitral awards is not the result of imposed regulation, but of a collective effort to build an international standard based on doctrinal convergence, institutional practice, and inter-jurisdictional cooperation. In this context, the idea is increasingly clear that coherent and predictable justice in international arbitration depends on the continuous interaction between comparative jurisprudence, soft law instruments, and the willingness of courts to leverage global best practices.

1.8. Recommendations for the Republic of Moldova for consolidating jurisprudential uniformity and the effectiveness of recognition and enforcement of foreign arbitral awards

The Republic of Moldova, although possessing a legislative framework favorable to international arbitration, faces significant limitations in its coherent and effective application. The arbitration culture is still underdeveloped, and judicial practice is fragmented, which affects the predictability of solutions and, implicitly, legal certainty.

The Republic of Moldova is a party to the main international treaties on the recognition and enforcement of arbitral awards, including the New York Convention since 1998, the European Convention on International Commercial Arbitration since 1994, and the ICSID Convention since 1994.

Domestically, Law No. 24 of February 22, 2008, on International Commercial Arbitration is based on the UNCITRAL Model Law on International Commercial Arbitration 2006 revised edition, which offers an inherent degree of legislative compatibility with states possessing advanced arbitration systems.

This legislative framework creates prerequisites for normative uniformization with established jurisdictions. However, the major difficulty lies

in transposing these standards into judicial practice and the functioning of arbitral institutions.

In terms of both judicial and arbitral jurisprudence concerning the recognition and enforcement of foreign arbitral awards, the volume of such cases in the Republic of Moldova is relatively low. This reality affects the level of familiarity and in-depth knowledge of magistrates and legal professionals regarding international standards for the effectiveness of arbitral awards. In the absence of consolidated practice and a significant number of consistently analyzed cases, judicial interpretations can remain fragmented, which generates risks in the correct application of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The International Commercial Arbitration Court (ICAC) at the Chamber of Commerce and Industry of the Republic of Moldova annually hears approximately 7 international commercial cases, while domestic arbitration cases are 10 times more numerous. The judicial practice of the courts of appeal, which have jurisdiction over applications for recognition and enforcement of foreign arbitral awards, is also equally limited.

In 2021, over 22 arbitral institutions were registered in the Republic of Moldova, but only one or two of them show constant activity and connections with international partners, European Bank for Reconstruction and Development and International Development Law Organization (EBRD and IDLO, 2021) – particularly the ICAC at the CCI of Moldova and the Chisinau International Court of Commercial Arbitration by the Moldovan American Chamber of Commerce in Moldova. The remaining institutions either are not effectively active or do not adhere to minimum transparency standards, such as publishing awards, maintaining an accessible register of arbitrators, or making procedural rules available. This situation contributes to a weak perception of the efficiency and credibility of arbitration in the Republic of Moldova.

At the same time, judicial practice regarding the recognition and enforcement of foreign arbitral awards can generally be characterized as "pro-enforcement," especially in the last decade. Approximately 80% of recognition and enforcement applications are granted by national courts, indicating a favorable disposition towards the application of the New York Convention. However, in more complex cases, particularly those involving notions of public policy, foreign applicable law, or procedural equivalence, errors in interpretation and application of international standards occur.

A significant turning point for the uniformization of practice was the adoption of Explanatory Decision No. 9 of the Plenum of the Supreme Court of Justice of December 9, 2013, amended by Decision No. 2 of April 25, 2016 (SCJ, 2016). This decision provides an official interpretation aimed at ensuring the correct and uniform application of procedural rules in cases concerning the recognition and enforcement of foreign arbitral awards. The document transcribes

a series of New York Convention standards, interpreted in accordance with the ICCA Guide (ICCA, 2025), bringing clarity to the application of grounds for refusal and promoting a restrictive approach to them.

In particular, the Plenum of the SCJ reaffirms the courts' obligation to refrain from any re-examination of the merits of the arbitral award and recommends a restrictive interpretation of the public policy ground for refusal, in line with international jurisprudence and arbitration doctrine (SCJ, 2016). Although the explanatory decisions of the Plenum of the Supreme Court of Justice are not strictly binding, they exert a consolidated interpretive authority, frequently followed by lower courts to ensure uniform judicial practice.

As highlighted in specialized literature, an efficient and coherent system for the recognition and enforcement of arbitral awards directly contributes to strengthening investor confidence in the domestic legal order and to the integration of the state into the global circuit of international commercial affairs (Al-Busaidy, 2013).

In this context, it is recommended to elaborate and publish analyzed jurisprudential compendia, focused on international commercial arbitration cases, especially concerning recognition and enforcement. These should include not only relevant decisions but also doctrinal commentaries, references to international guides, such as ICCA, UNCITRAL, CIArb, and comparative jurisprudence from established jurisdictions.

This network of compendia, guides, and doctrinal syntheses creates a common pool of knowledge and benchmarks that can contribute to reducing the risk of divergent or arbitrary treatments, supporting the consolidation of coherent global arbitral law. At the same time, it is opportune to elaborate a transparent national register of functional arbitral centers, with an annual presentation of statistics on resolved cases, adherence to international standards, and involvement in regional and international cooperation networks. Institutional consolidation of the most active arbitral centers, such as the ICAC, should be encouraged by providing a favorable regulatory framework and supporting their participation in international standardization initiatives.

The continuous training of magistrates should include modules dedicated to the application of the New York Convention, the study of foreign jurisprudence, and the analysis of complex cases with foreign elements. Useful models can be drawn from Swiss jurisprudence, where the Federal Tribunal promotes a pro-enforcement interpretation, strictly limiting the application of the public policy exception, as well as from French and American practice, where courts avoid reviewing the merits and uphold the autonomy of the arbitral tribunal. Furthermore, the jurisprudence of the European Court of Human Rights emphasizes the importance of respecting the right to a fair trial, guaranteed by Article 6 of the Convention, even in arbitral proceedings, obliging states to ensure

that the recognition and enforcement of arbitral awards do not contravene fundamental guarantees.

The consolidation of jurisprudential uniformity in the Republic of Moldova cannot be achieved in the absence of a coherent national strategy, accompanied by international partnerships, legislative initiatives, and a firm commitment from the courts.

5. CONCLUSION

The Republic of Moldova advances on a pro-enforcement trajectory regarding the recognition and enforcement of foreign arbitral awards, yet judicial practice remains fragmented. Despite a solid legislative basis and the general orientation of courts toward enforcement, key challenges persist – stemming from inconsistent application of the New York Convention, insufficient understanding of arbitration principles, and limited exposure to comparative jurisprudence.

To ensure legal certainty and reinforce Moldova's international credibility, jurisprudential uniformization must become a structured national priority. This requires coordinated measures, including: (i) continuous training of judges and legal professionals in arbitration standards and best practices; (ii) elaboration and dissemination of jurisprudential guides and compendia aligned with ICCA, UNCITRAL, and comparative doctrine; (iii) institutional strengthening of active arbitral centers, with transparent procedures and international cooperation; and (iv) active participation in global harmonization platforms.

Uniform, coherent jurisprudence is not merely a formal ideal but a prerequisite for legal predictability, investment attractiveness, and compliance with Moldova's European commitments. In this context, consolidating judicial practice, fostering professional competence, and anchoring Moldova in the global arbitral dialogue are essential steps toward a credible and effective pro-arbitration legal system.

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