

Saint Petersburg State University: Call for papers on Recognition and enforcement of foreign judgments: Problems and prospects

By **Andrey E. Zuev**, Saint Petersburg

The modern period of the development of civilization is known to increasingly impart the character of imperativeness to the principle of cooperation between states, transforming its initially basically declarative formula of relations between states into an imperative content, fixed as obligations of the states to ensure the right to a fair hearing not only at the level of formal access to justice, but also at the level of enforcement of judgments as the highest manifestation of justice in the state organization of social management.

The emerging tendency to move from the mainly impersonated forms of doing business, mediated by the concept of legal person and based on governmental mechanisms, on the one hand, to individual responsibility, on the other hand, reflects the achievement of a new level of opportunities for self-realization of a person, which, thanks to the development of the institution of intellectual property and other legal mechanisms of individualization of the surrounding world, is becoming increasingly apparent the creator in the world of tangible and intangible assets, at the same time accepting the responsibility for her or his own actions and their consequences, both in business and in personal matters.

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN

JUDGMENTS IN CIVIL OR COMMERCIAL MATTERS, concluded at a diplomatic conference in The Hague on July 2, 2019 as part of the Hague Conference of Private International Law, became one of the new forms of translating the principle of cooperation between states into their specific legal obligations with respect to each person, creating a new platform for the development of the institution of recognition of foreign court decisions, both multilaterally and bilaterally.

The need of the international Community in this Convention, is directly related to the development and complication of international relations and business projects, to such an extent that the existing international treaties are explicitly foreseen by some states as insufficiently reliable to achieve legal certainty and justice in the sphere of the access to justice, and especially at the stage of recognition and enforcement of foreign state courts judgments.

This is expressed, *inter alia*, in the fact that even having in place the system of international commercial arbitration, which uses the system of arbitration courts that has been tested for centuries, this system being based on the formation of the judiciary, appointed by the parties to the dispute and / or in accordance with the rules chosen by the parties, to resolve the dispute, the states are faced with the need to respond to the apparent lack of protection, independence, and competence of the arbitrators. This gives rise to arbitration decisions that do not meet the requirements of legal justice in the eyes of the state courts, designed to decide about the possibility of recognition and enforcement within their jurisdiction of foreign commercial arbitration awards, on the grounds of international treaties, and their own constitutional rules of national legal order.

State justice, based on the principle of *jura novit curia* and having three main stages of verifying the compliance of a court ruling with the law in the broad sense, is opposed in the legal field by arbitration awards, whose authors are not

required to know the law like the state courts, and, as a rule, do not bear the risks of their awards' cancellation for this motive.

At the same time, the consequences of arbitral awards can have such a significance for society that a state which acts on behalf of the whole nation and in its interests cannot allow the risks associated with insufficient protection and / or insufficient competence of arbitrators in the international commercial disputes. In this regard, we are witnessing the emergence of a significant number of specially created state courts, whose activities are specifically aimed at considering disputes of international nature, and the judgments of which will also require recognition and enforcement on the territory of foreign states.

As we know, there are legal orders that authorize their courts to recognize and enforce foreign judicial decisions in their territory, in the absence of a relevant international treaty, and other legal orders that do not authorize their courts to make judgments on the recognition and enforcement of foreign judicial decisions in the absence of an international treaty. The emerging paradoxical situation leads to an imbalance in the relations between states.

This imbalance can sometimes be overcome by the practice of courts based on the principle of cooperation between states, as well as on international courtesy and reciprocity. At the same time, the international relations are now acquiring such quality and quantity that the international community is looking for ways to universalize relations in this area, in order to ensure access to justice at all stages.

The creation of state based international commercial courts for international disputes, the adoption of the Hague Convention on the recognition and enforcement of foreign judgments in civil and commercial matters in 2019, as well as the Hague Convention 2005 on the Agreement on the selection of

courts, all that reflects the newest stage in the development of private international law and procedure, which requires international brainstorming sessions, an understanding of the capabilities of each legal system in ensuring the accessibility and urgency of justice as an obligation of states, coming from the principle of cooperation enshrined in the UN Charter and binding all the states of the planet Earth.

In this regard, the Journal of «*Pravovedenie*» (Jurisprudence) opens a call for papers for the articles in a special issue of the journal dedicated to the cooperation of states, in ensuring access to justice at the stage of recognition and enforcement of decisions of foreign state courts on its territory.

For these reasons, we would respectfully like to invite authors to contribute to this issue of the Journal, and offer their articles on these issues of private international law and process.

Articles are to be written in English or in Russian, and may be of length from 0.75 to 2 copyright sheets (author sheet is a unit of measurement of 40,000 characters, including spaces)). The articles are to be uploaded to the journal website at:

<https://pravovedenie.spbu.ru/about/submissions>

When editing your article, please follow our style guide, available on our website.

We need to receive your article no later than May 1, 2021.

Articles are subject to review in accordance with the rules of the Journal.

We shall be very thankful if you let us know in advance of your plans to participate in the issue, as we have to plan the volume of the printing.

Please send in anticipation a message about your intention to submit an article for this special issue of the journal to the following email address: pravovedenie@spbu.ru

Guest Editors

Gabriele Crespi Reghizzi, Doctor of Laws,

Full Professor of the Civil Law Department at Saint Petersburg State University;

former Ordinarius, University of Pavia

Andrey E. Zuev, Attorney-at-law, Contracted Professor of the Department of International law at Saint Petersburg State University, Member of the Russian Association of International law

Further information [here](#).

For those who are interested in the HCCH 2019 Judgments Convention see also the [HCCH/Bonn University Conference on 25 and 26 September 2020](#).