60 Years of the New York Convention in Hungary

A Formalistic, Yet Pro-Arbitration Approach*

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Abstract

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards celebrates the 60th anniversary of its entry into force in Hungary in 2022. After being hibernated for nearly three decades, the Convention has become an essential source of Hungarian lex arbitri since the political-economic transition of the country from socialism to market economy in 1989-1990. Given that the Convention celebrates its 'diamond anniversary' in Hungary this year, the time is ripe to review its application by domestic courts over the last decades, by focusing on the recognition and enforcement of international arbitration agreements and foreign arbitral awards in Hungarian judicial practice. This study aims at verifying whether the approach of Hungarian state courts is in line with, or at least converging towards the dominant pro-arbitration bias of the Convention. On the other hand, it is worth identifying those domains, where national judicial practice departs from the mainstream tendencies, and to shed light on those fields, where the risk of divergence from the arbitration-friendly orientation arises.

Keywords: New York Convention, recognition and enforcement of foreign arbitral awards, Hungary, lex arbitri, arbitration.

1. Introduction

It can be hardly disputed that the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards[1] (Convention) is a key legal source in the field of international commercial arbitration. According to a renowned English judge and arbitrator, the Convention is probably *"the most effective*

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1 UNTS, Vol. 330, Issue 4739. Convention on the Recognition and Enforcement of Foreign Arbitral awards, done at New York on 10 June 1958.

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instance of international legislation in the entire history of commercial law".[2] Besides having almost 170 signatories at the time of writing this article, due to its impact on the UNCITRAL Model Law on International Commercial Arbitration,[3] chosen as the foundation for the modernization of national arbitral laws by more than 80 countries worldwide, the Convention may be characterized as the 'alpha and omega' of international commercial arbitration. Besides its symbolic meaning, the above-mentioned expression well illustrates the main purpose of the Convention, *i.e.* to regulate the first and the last stage of arbitration: the beginning of the dispute, where the recognition and enforcement of the arbitration agreement by state courts is a crucial issue, and the very end of the arbitral process, which materializes in the recognition and enforcement of the foreign arbitral award by states. Given that the Convention celebrates its 60th anniversary of entering into force in Hungary, the time is ripe to review the case law of Hungarian courts over the last decades to verify whether the approach of domestic courts is in line with, or at least converging towards, the dominant pro-arbitration bias of the Convention. On the other hand, it is worth identifying those fields, where national judicial practice is diverging from this direction, or at least where there is a risk of such divergence. The second section of this article presents the place of the Convention in the Hungarian legal system, discusses the reasons for its marginal role until the '90s, explains how its principles and provisions have become an essential part of Hungarian arbitration law and summarizes the case law relating to commercial reservation. The third section examines the judicial practice of domestic courts regarding the recognition and enforcement of international arbitration agreements. Finally, in the fourth section, I analyze the case law of Hungarian courts on the recognition and enforcement of foreign arbitral awards.

2. The Convention in the Hungarian Legal Order

2.1. Accession and Hibernation until the '90s

Together with other states from the so-called Eastern bloc, who joined the Convention in the late 50's and early 60's, Hungary joined the Convention on 5 March 1962, by making both reciprocity and commercial reservations. The Convention entered into force in Hungary on 3 June 1962,[4] and the Ministry of Justice even issued a decree, in order to clarify some issues in respect of the Convention's implementation.[5] It should be noted that regardless of Hungary's early accession, *the Convention could play only a marginal role in the international*

2 Michael John Mustill, 'Arbitration: History and Background', *Journal of International Arbitration*, Vol. 6, Issue 2, 1983, p. 43.

3 UN Doc. A/40/12, annex I as adopted by the UN Commission on International Trade Law on 21 June 1985, and as amended by the UN Commission on International Trade Law on 7 July 2006.

4 Legislative Decree No. 25 of 1962 on the promulgation of the Convention on the Recognition and Enforcement of Foreign Arbitral awards, done in New York on 10 June 1958.

5 Decree of the Hungarian Ministry of Justice No. 12/1962. (X. 31.) (Ministerial Decree).

commercial relations of our country before 1990, since behind the iron curtain cross-border business activities were carried out exclusively via state-owned companies, and mainly among countries belonging to the Council for Mutual Economic Assistance (Comecon).[6] It is hardly surprising that the only Hungarian treatise on international arbitration from this era dedicates a whole chapter to the rules of procedures of the various arbitration institutions of the Comecon countries, while presenting the Convention quite sketchily.[7] At the same time, the marginal role played by the Convention in Hungary in the first three decades after its entry into force was not based on purely economic or political considerations, but it was justifiable on pragmatic grounds, too. Indeed, the Moscow Arbitration Convention, adopted with a view to resolve cross-border commercial disputes between the companies of the Comecon member states, set forth more favorable award enforcement provisions than the Convention.[8] Furthermore, the Hungarian implementation of the Convention introduced a blanket rule that could be invoked by the Hungarian award-debtor to resist the enforcement of the foreign arbitral award, which amounted to a significant risk for foreign parties outside the iron curtain.[9] Based on the above, the domestic application of the Convention could only really gain momentum after the political and economic transition in 1990, which brought the fall of the iron curtain, and the opportunity for Hungarian private market actors to conduct cross-border commercial activities.[10]

2.2. 'Indirect Effect' on Hungarian Arbitration Laws from '90s

Before delving into the case law analysis, it is worth recalling the impact of the Convention on the current arbitral laws of Hungary. Given that the Hungarian legislator used the Model Law as a starting point for reforming the Hungarian *lex arbitri* both in 1994 and 2017, *the Convention had significant 'indirect effect' on both*

6 The Comecon had been set up in 1949 by the Soviet Union in Moscow, in response to the Marshall Plan, to facilitate the economic reconstruction and progress by mutual assistance, cooperation and trade behind the iron curtain. Vast majority of Eastern European Countries participated in the Comecon.

7 László Faragó, *Nemzetközi választottbíráskodás,* Közgazdasági és Jogi Kiadó, Budapest, 1966, pp. 193-215, and 227-323.

8 Convention on the Settlement by Arbitration of Civil Law Disputes Resulting from Relations of Economic and Scientific-Technical Cooperation, Done at Moscow, 26 May 1972. Article V of the Moscow Arbitration Convention includes fewer grounds for refusing the recognition and enforcement of the arbitral award.

9 Section 5 of the Ministerial Decree, which has been repealed in 1994, provided that the recognition and enforcement of the foreign award could be refused, in case the Hungarian party entered into the arbitration agreement or the underlying legal relationship, without being entitled to do it, or without having the necessary administrative permit.

10 Katalin Raffai, 'Interpretation and Application of the New York Convention in Hungary', *in* George Bermann (ed.), *Recognition and Enforcement of Foreign Arbitral Awards. The Interpretation and Application of the New York Convention by National Courts*, Springer, 2017, p. 444.

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the former and on the current Hungarian Arbitration Act.[11] In this way, Article II of the Convention, defining the concept, form and 'negative effect' of arbitration agreements, had been reflected in Article 7 (Option I) and Article 8(1) of the Model Law and these provisions were essentially adopted by Sections 8 and 9 of the Hungarian Arbitration Act. Probably the most important innovation of the Model Law was the unification of the grounds for annulment of the arbitral award, by mirroring the grounds for refusing the recognition and enforcement of foreign awards of Article V of the Convention.[12] These unified grounds for setting aside arbitral awards in Article 34(2) of the Model Law were taken over verbatim by Section 47(2) of the Hungarian Arbitration Act. Last, but not least, when it comes to the grounds for refusal of the recognition and enforcement of arbitral awards set forth in Article V of the Convention, these were taken over by Article 36(1)(a) and (b) of the Model law,[13] and the grounds for refusal in point (b) (infringement of public policy, lack of arbitrability) were regulated in Section 54 of the Hungarian Arbitration Act. Based on the above, due to the Convention and the Model Law, when it comes to the most important milestones of arbitral proceedings, namely the enforcement of arbitral agreements, the setting aside of arbitral awards, and the enforcement of the latter abroad, a harmonized legal framework was born in the field of international arbitration, which was entirely taken over by the Hungarian legislator in the '90s. At the same time, given that the line of demarcation between purely domestic and international arbitrations is unclear in the Hungarian practice,[14] this harmonized legal framework can be characterized as constituting both a risk and a potential at the same time. On the one hand, given that Hungarian courts face grounds for not enforcing arbitration agreements and arbitral awards most frequently in purely domestic settings, there is a real risk that judges, wearing the 'same glasses', apply the standards crystallized in these national proceedings in international cases, as well. On the other hand, the reception of the dominant pro-arbitration interpretation of the Convention by other jurisdictions may have a positive effect on the application of national arbitral laws in domestic cases as well. While this study focuses mainly on the domestic judicial practice forged during the application of the provisions of the Convention, given the possible interplay between the above regimes, where it is relevant, I will also refer to the

11 The former Hungarian Arbitration Act was Act LXXI of 1994 on Arbitration. The current Hungarian Arbitration Act ("Hungarian Arbitration Act") is Act LX of 2017 on Arbitration. The provisions of the current Hungarian Arbitration Act entered into force gradually, starting with 16 June 2017. The provisions governing arbitral proceedings entered into force with effect from 1 January 2018, and these are applicable to arbitral proceedings that were commenced after this date.

12 Explanatory Note by the UNCITRAL secretariat on the 1985 Model Law on International Commercial Arbitration as amended in 2006 (Explanatory Note), Sections 46-47.

13 Explanatory Note, Sections 49-51.

14 The Hungarian Arbitration Act governs both purely domestic and international arbitral proceedings. Section 1(1) of the Hungarian Arbitration Act provides as follows: "The provisions of this Act shall apply if the place of the arbitration is in Hungary." The case law of Hungarian courts has started to show some differentiation in the last two decades in relation with public policy, *see* Section 4.2.7.

court practice applying the respective provisions of the Hungarian Arbitration Act.

2.3. Subject Matter Scope, Commercial Reservation

When it comes to subject matter scope, in accordance with the Hungarian implementation of the Convention, the provisions of the latter shall be applied on the one hand, to awards made outside the territory of Hungary, and on the other hand, to awards made in Hungary, provided that these were made in proceedings where the seat of arbitration was abroad and the majority of the arbitral tribunal members or the sole arbitrator was a foreign national.[15] While the application of the above provisions had not caused debates in practice, the commercial reservation had often been invoked by award debtors over the last decades. Given that since the mid '90s *the concept of "commercial dispute" has not been defined by domestic law*, this legislative gap gave an interpretative task to the courts.[16] For example, in a case, where the award debtor resisted the enforcement of an award delivered by the arbitral tribunal of the Austrian Chamber of Commerce, the first instance court wrongly concluded that the transfer of ownership would be a relevant factor when assessing the commercial nature of the relationship. The second instance court corrected this decision by establishing that a lease agreement with an option for the subsidiary of the tenant to enter into a leasing agreement with the landlord shall be considered a commercial relationship.[17] In another case, a commercial agency contract that was subject to Swiss law had to be interpreted by the Hungarian court, since the award debtor contended that he had been in an employment relationship with the award creditor. The courts rightly concluded that an agreement between two independent persons, without subordination, could not be qualified as an employment relationship, since by setting common business goals, the parties strived for gaining individual profit, based on which the legal relation was qualified as commercial.[18] Another award-debtor called into question the commercial nature of the legal relationship on the grounds that his electricity network development contract concluded with the Kingdom of Belgium was governed by Belgian administrative law. However, the Hungarian courts pointed out that even if electricity supply has some connection with the public powers of the state, by entering into the network contract at hand, the foreign state had not exercised its public powers *(acta iure imperii)*, but acted as a private market actor *(acta iure gestionis),* therefore, the commercial reservation was not applicable.[19] In

15 Section (1)(a) and (b) of the Ministerial Decree.

16 Article 2 of the Ministerial Decree defined the concept of commercial dispute by referring to Decree No. 1/1960. (V. 10.) PM of the Minister of Transportation, Media and Energetics, which was repealed in 1994, with the entering into force of the former Arbitration Act. *See* Raffai 2017, p. 435.

17 Hungarian Supreme Court, Case No. BH2004.369.

18 Hungarian Supreme Court, Case No. BH 2007.130.

19 Regional Court of Appeal of Budapest, Case No. 2201-3. Pfk.27.107/2015/10. Cited by Anikó Bajcsy, 'Külföldi választottbírósági ítélet elismerése megtagadásának magyar bírósági gyakorlata', *Kúriai Döntések,* 2017/2, pp. 275-280.

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the international practice of the Convention *the commercial nature of the dispute is usually interpreted broadly,* and refusal of enforcement for lack of commerciality is rather exceptional.[20] Based on the above case law, we can conclude that in this respect, the Hungarian judicial practice is in line with the dominant approach. At the same time, the author of this study agrees with the opinion of several scholars, that the commercial reservation should be withdrawn, to avoid causing any complications in the future.[21]

3. Enforcement of Arbitration Agreements

At the outset, it should be highlighted that Article II of the Convention is rarely invoked directly before Hungarian courts, because *the Hungarian Arbitration Act adopted verbatim the respective provisions of the Model Law mirroring the above provisions of the Convention*, therefore, it is more convenient for parties to rely on the provisions of domestic law.[22] Yet, there are some court decisions which merit attention in relation to the formation of the arbitration agreement, where the issues of incorporation by reference, and contract conclusion through an agent revealed some inconsistencies in addressing conflict of laws issues by domestic courts. In addition, besides giving an overview of the issue of arbitrability in the pre-award phase, I draw attention to some negative tendencies regarding arbitration agreements in domestic arbitral practice, which may pose a risk for future cases falling under the Convention.

3.1. Incorporation by Reference – Tacit Approval

When it comes to issues of consent under Article II(1) of the Convention, it is illuminating how the coincidence of the legislative gap of the Convention regarding the determination of the law governing arbitration agreements in the pre-award phase, and domestic tendencies, such as the so-called *Heimwärtsstreben,*[23] *i.e.* the leaning of national courts to apply *lex fori,* and the parochial practice of domestic courts on contract formation is capable of undermining the efficiency of international arbitration agreements. According to Hungarian contract law, general terms and conditions (GTCs) become an integral part of the contract only in case the party using them made it possible for the other party to familiarize themselves with the content of these terms prior to the conclusion of the contract. Furthermore, unusual GTCs, often referred to in legal practice as 'surprise clauses', must be expressly accepted by the other party following a notification drawing attention to these and made by the party using them.[24] The above substantive law provisions, applicable even in business to

20 Emanuelle Gaillard & George Bermann (eds.), *The UNCITRAL Secretary Guide on the New York Convention*, Brill, Nijhoff, 2017, p. 39.

21 Raffai 2017, p. 434.

22 Article 7 (Option I) and Article 8 of the Model law are reflected in Section 8 and 9 of the Hungarian Arbitration Act.

23 Arthur Nussbaum, *Deutsches Internationales Privatrecht,* J.C.B. Mohr, 1932, p. 384.

24 Section 6:78 (1)-(3) of the Hungarian Civil Code.

business (B2B) cases, can be relevant in arbitration, because the outdated judicial practice developed in domestic arbitral proceedings considers arbitration clauses incorporated into GTCs as 'surprise clauses', which are enforceable only in case of express consent.[25] This line of thought is reflected in the first instance decision rendered in a recent case involving a legal dispute between an Austrian seller and a Hungarian buyer, where the seller's GTCs stipulated Austrian law as the law governing the contract, and an ICC arbitration clause with a seat of arbitration in Innsbruck (Austria). Despite the above circumstances, the court of first instance accepted the argumentation of the buyer, relying on Hungarian contract law as *lex fori*, according to which in the absence of express acceptance of such a 'surprise clause' like the arbitration agreement, that clause did not come into existence. Hopefully, the court of second instance took a different view and applied Austrian law as *lex causae* to the existence of the arbitration clause, according to which, in case the parties do business in the same sector, or they have an ongoing business relationship, the provisions of the GTCs become part of the contract if one of the parties intends to use them, and the other party is aware of this fact.[26] Even if the provisions of the Convention have not been invoked directly, the solution of the court of second instance is in line with the dominant approach under Article II(1) of the Convention, according to which the conclusion of the arbitration clause shall be governed by the same law as its validity, and the uniform conflict of law rule of Article V(1)(a) shall be applied *mutatis mutandis* in respect of the arbitral agreement in the pre-award phase, in order to ensure a coherent standard during all stages of arbitration.[27] Yet, *the first instance decision perfectly illustrates the traditional approach of Hungarian courts,* and it reveals how a flaw in the application of the proper connecting factor accompanied by an unfortunate domestic case law on the formation of contracts can undermine the parties' agreement to arbitrate in international matters.

3.2. Issues of Representation

The issue of consent can be a delicate one, in case the arbitration agreement is concluded *via* an agent, whose authority of representation is challenged later, calling into questions the existence of the arbitral agreement in the meaning of Article II(1) of the Convention. One particular case, involving a share purchase contract in relation to the business shares of a Hungarian limited liability company, merits attention in this context.[28] The above contract had been entered into by a Cyprian company as the seller and a Swiss company as the buyer in Budapest, and it contained an arbitration clause in favor of the Arbitration Court of the Russian Chamber of Commerce and Industry. The seller sued the buyer before the Hungarian courts, by challenging the existence of the share purchase contract and the arbitration clause, arguing that it was concluded on its behalf by

25 Hungarian Supreme Court, Case Nos. EH2003.875 and BH2001.131.

26 Regional Court of Appeal of Győr, Case No. Gf.20.108/2020/5.

27 Reinmar Wolff (ed.), *New York Convention – Article-by Article Commentary,* 2nd edition, C.H. Beck, München, 2019, p. 104; Gary B. Born, *International Commercial Arbitration,* 2nd edition, Kluwer Law International, 2014, p. 566.

28 Regional Court of Appeal of Budapest, Case No. 10.Gf.40.417/2011/12.

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a false representative, who acted based on a power of attorney, given to him in Cyprus 5 years before the sales transaction. The buyer disputed the jurisdiction of Hungarian courts based on the arbitration clause. However, in the opinion of the Hungarian courts, the power of attorney issued in Cyprus and the share purchase contract concluded 5 years later in Budapest had to be considered as one transaction. According to the courts, this transaction had the closest connection with Hungary, so they applied Hungarian law in the case. Since the sale of the target company did not fall into the subject matter scope of the power of attorney, the Hungarian courts ruled that the false representative could not enter into a binding arbitration agreement on behalf of the seller. The above decision can be criticized mainly for *ignoring the principle of separability of the arbitration agreement*, which prevented the court from examining the issue of representation, and the existence of the arbitration clause in the light of any other law than the *lex fori*, which is further 'evidence' for the disadvantageous effects of the above-mentioned phenomenon of *Heimwärtsstreben* of domestic courts in the field of cases involving matters of international commercial arbitration.

3.3. Arbitrability in the Pre-Award Phase

Since unlike Article V(1)(a) of the Convention, Article II(1) fails to specify which law governs the issue of arbitrability in the pre-award phase, there are diverging views on this issue. Some courts apply *lex fori*, other courts apply *lex causae*,[29] while in the opinion of some courts and commentators the abovementioned laws should be applied cumulatively.[30] Developed jurisdictions distinguish between purely domestic and international matters, and based on the *pro-arbitration* approach, they interpret the arbitrability exception narrowly in the latter cases.[31] Hungarian courts are mainly faced with the issue of inarbitrability in company law matters, where two court decisions merits the attention. In the first case, the defendant raised an *exceptio arbitri* relying on the arbitration clause of a share purchase contract, but the claimant argued that his claim is directed towards the establishment of the nullity of the entire contract, which could concern the Hungarian company register in which the defendant had been already registered. For this reason, the claimant held that the plea of the defendant was inadmissible on grounds of objective inarbitrability, since in his opinion, only state courts were allowed to make any decision modifying the content of Hungarian public registers. However, the courts rightly made a difference between claims directly or indirectly concerning the register of companies as a public register, ruling that the legal dispute was theoretically arbitrable in the latter case, since the eventual establishment of nullity of a contract would have only *inter partes* effect, without directly affecting the content of the public register.[32]

29 Gaillard & Bermann 2017, pp. 56-57.
30 For the cumulative approach *see e.g.* Wolff 2019, p. 150.
31 Born 2014, pp. 957, 964, and 969.
32 Regional Court of Appeal of Budapest, Case No. 10.Gf.40.417/2011/12. (ÍH 2012.82.).

In another corporate law case, where the articles of association of a Hungarian company provided for arbitration at a Belgian arbitral institution in case of shareholder disputes, a Belgian minority shareholder intended to appoint an *ad hoc* auditor, to examine some dubious action of the management, however, this motion was not upheld at the shareholders' meeting. When the minority shareholder turned to the Hungarian company court, seeking negative declaratory relief for the lack of competence for the above shareholder dispute because of the arbitral clause, the second instance court came to the conclusion that under Hungarian company law an *ad hoc* auditor can be appointed only in the framework of supervisory proceedings, belonging to the exclusive competence of company courts, therefore, the arbitration clause was unenforceable in this case.[33]

The above decisions illustrate that Hungarian courts apply *lex fori* when evaluating arbitrability in the pre-award phase. While a differentiation of arbitrability in domestic and international cases is missing from domestic practice, it can be concluded that the narrow interpretation of the concept objective inarbitrability in the first case, and the non-arbitrability of certain company matters involving regulatory and controlling functions of the state was not incompatible with the pro-arbitration bias of Convention.

3.4. Negative Effect of Arbitration Agreements

Article II(3) of the Convention *requires national courts to refer the parties to arbitration, if it is requested by at least one party, unless the court finds that the agreement is null, void, inoperative, or incapable of being performed*. When it comes to the standard of review applied by Hungarian courts in the context of Article II(3), instead of conducting a mere *prima facie* inquiry, like in France, the domestic practice follows rather German standard of full review instead.[34] They conduct a comprehensive evidentiary procedure, if needed, to decide on the existence and validity of the arbitration agreement in the pre-award phase. However, in domestic matters, there is an alarming phenomenon in case one of the parties becomes insolvent after the conclusion of the arbitration agreement. A series of first instance and appellate court decisions established in these cases that the arbitration agreement has become "incapable of being performed" by reason of the very fact of the commencement of liquidation proceedings against one of the parties.[35] Even if this issue is polarizing on the international level, since German courts seem to accept a similar approach, while English and Portuguese courts have not considered the lack of financial resources as a factor

33 Regional Court of Appeal of Budapest, Case No. 16.Cgtf.43.178/2017. (BDT2017. 340.). It must be noted that the court of second instance considered the arbitration clause "incapable of being performed", however the court actually decided that such a supervisory proceeding cannot be subject of arbitration, which practically means the objective inarbitrability of the subject-matter.

34 Gaillard & Bermann 2017, pp. 70-71.

35 Curia of Hungary, Case No. EBD2014.11.4.G; Regional Court of Appeal of Pécs, Case No. Gf. 40.041/2014/11; Budapest-Capital Regional Court, Case No. G.42.087/2016/31; Debrecen Regional Court, G.40.169/2015/42.

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which renders the agreement for arbitration incapable of being performed,[36] the tendency of Hungarian courts to make a *prima facie* decision of not enforcing the arbitration agreement, without verifying the actual financial status of the party concerned, received strong criticism from domestic practitioners.[37] Indeed, the Curia, that is, the Hungarian supreme court has not yet had a chance to address this issue, and the author of this article hopes that the above questionable case law will be not be carried over to the international level, since this approach could erode the *Kompetenz-Kompetenz* principle and the efficiency of arbitration agreements in Hungary.

4. Enforcement of Arbitral Awards

From the perspective of the court seized by an award creditor with an application to recognize and enforce a foreign arbitral award under the Convention, the procedure can be broken down into two phases. In the 'formal phase', the court examines whether the practitioner fulfilled its obligations under Article IV, while in the 'substantive phase', the court deals with the case on the merits, by examining whether the grounds for refusal under Article V of the Convention are applicable. Under Hungarian procedural law, *the formal and substantive phases are conducted by the judge in the same non-litigious proceeding*, at the end of which the court either dismisses the application, or issues the so-called *'exequatur'* certificate. In the absence of clear legal provisions, some Hungarian courts conducted this proceeding on *ex parte* basis, in which case the award debtor became aware of the award enforcement only when the first instance decision on 'exequatur' was served upon him. As one commentator rightly pointed out, an *inter partes* procedure can be better reconciled with basic procedural principles, since in case of an *ex parte* first instance proceeding, the award debtor can put forward his arguments only in the appeal. These arguments are only considered for the first time by the court of second instance, so the right to a fair trial and the right to an effective remedy, enshrined by Article 6 ECHR may be jeopardized.[38]

4.1. Compliance with Formalities

When it comes to compliance with formalities under Article IV, there are two paradigms among national courts worldwide. While a minority of courts, in particular, in Italy and Spain, held that *Article IV contains mandatory procedural prerequisites, in the absence of which the application shall be dismissed*, the majority of jurisdictions construed Article IV as a provision merely concerning evidence.

36 Wolff 2019, p. 195; *ICCA's Guide to the Interpretation of the 1958 New York Convention – Handbook for judges*, International Council for Commercial Arbitration, 2011, p. 117.

37 Miklós Boronkay, 'A fizetésképtelenség hatása a választottbírósági szerződésre', *in* János Burai-Kovács (ed.), *A Kereskedelmi Választottbíróság Évkönyve 2018,* HVG-ORAC, Budapest, 2019, pp. 222-239; Zsolt Okányi, 'Fizetésképtelen társaságok a választottbírósági eljárásban: a választottbírósági kikötés betar(ta)tása és a törvényes bíróhoz való jog', *in* Burai-Kovács 2019.

38 Bajcsy 2017, pp. 272-273.

According to the latter approach, non-compliance with all of the formalities did not amount to an automatic dismissal of the application, which is more in line with the spirit of the Convention.[39] The approach of Hungarian courts is closer to the first paradigm, therefore, in case the applicant fails to comply with all of the necessary formal obligations, the first instance court usually orders the completion of documents *ex officio*, or the court of second instance orders new proceedings. Except for a few cases, where, in accordance with Article VII of the Convention, bilateral treaties take priority over the provisions of the Convention,[40] non-compliance with Article IV(1)-(2) leads to the rejection of the application seeking the recognition of foreign awards. For example, Hungarian courts did not grant recognition where the arbitration agreement was missing, or in cases where it was submitted as a simple photocopy, without legalization by a notary public.[41]

In one particular case, the Supreme Court stressed that in the recognition procedure, the arbitration agreement shall be submitted and its existence cannot be established on the basis of other evidence, *e.g.* on the grounds that the award debtor acknowledged the existence of the arbitration clause in its request for arbitration.[42] The same approach was taken in those cases where petitioners submitted the arbitral award in a simple copy, without legalization.[43] When it comes to translations, although in some countries the translation of the award and the arbitration agreement is not always requested,[44] Hungarian courts are conservative in this regard and recognition was not granted in cases where the arbitral award was submitted in a simple translation, or without an attestation clause from the translator.[45] The *excessive formalism of Hungarian courts* is well characterized by a recent decision, according to which, despite electronic communication applicable to all civil proceedings with effect from 1 January 2018 in Hungary, besides submitting the arbitration agreement and arbitral award as an e-document, signed by the legal representative *via* a qualified electronic signature within the meaning of the eIDAS Regulation,[46] the applicant had to submit these documents in hard copy, as well.[47] From the perspective of award creditors, the formalistic approach of Hungarian courts which is capable of prolonging the enforcement proceeding can be a major risk, since award debtors

39 Maxi Scherer, 'Article IV', *in* Reinmar Wolff (ed.), *New York Convention – Article-by Article Commentary,* 2nd edition, C.H. Beck, München, 2019, p. 224; Gaillard & Bermann 2017, p. 109.
40 Hungarian Supreme Court, Case No. BH2004.416.
41 Hungarian Supreme Court, Case Nos. BH1999.270.; BH2004.19. and BH2002.582.
42 Hungarian Supreme Court, Case No. BH2004.285.
43 Hungarian Supreme Court, Case No. BH1999.223.
44 *ICCA's Guide* 2011, p. 77.
45 Hungarian Supreme Court, Case Nos. BH2004.19. and BH1999.223.
46 Regulation (EU) No 910/2014 of the European Parliament and of the council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.
47 Regional Court of Appeal of Budapest, Case No. 2201-7. Pkf.25558./2019/4. Cited by Dániel Gelencsér & Sándor Udvary (eds.), *A bírósági végrehajtásról szóló törvény és a kapcsolódó jogszabályok kommentárja,* HVG-ORAC, Budapest, 2021, p. 713.

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can use the extra time generated by the requirement of full compliance with formalities to frustrate the successful enforcement of the arbitral award.

4.2. Grounds for Refusal

4.2.1. Governing Principles

Before examining the domestic court practice regarding the grounds for refusal of the recognition and enforcement of foreign arbitral awards, set forth in Article V(1)-(2) of the Convention, it is worth analyzing the application of the general principles governing this phase by national courts. When it comes to the general prohibition of the *'révision au fond'* which ensures that the court acting in the recognition and enforcement phase does not become an 'appellate forum' reviewing yet again the merits of the case, this principle has been confirmed by several Hungarian decisions.[48] The same is true in relation to the *exhaustive character* of the grounds under Article V of the Convention, based on which domestic courts rejected the award creditors' objections relying on the decrease of the claim, or invoking ongoing litigation with third parties, clarifying that these defenses may not be invoked under the said provision.[49] When it comes to the *burden of proof*, it is also well-settled case law in Hungary that the award debtor shall expressly invoke and substantiate the grounds mentioned in Article V(1) of the Convention.[50]

4.2.2. Incapacity, Invalid Arbitration Agreement – Article V(1)(a)

According to the first prong of Article V(1)(a) of the Convention the recognition and enforcement of the arbitral award can be refused in case *one of the parties of the arbitration agreement was under some incapacity*. Since Convention-related domestic case law does not yield any results in respect of this ground for refusal, it is worth mentioning two relevant cases from the domestic practice on setting aside arbitral awards. In one case, an embassy of a foreign state in Hungary signed a lease contract with a local lessor, despite the relative provisions of the Vienna Convention on Diplomatic Relations of 1961,[51] according to which the lessee did not have legal personality.[52] In another case where the condominium representative signed a loan contract with an arbitration clause on behalf of the condominium in the absence of specific legal provision or condominium resolution. In both cases the lack of legal capacity led to the setting aside of the arbitral awards, at the same time, these cases illustrate that this ground may be invoked only under very exceptional circumstances before of Hungarian courts.

When it comes to the *invalidity of the arbitration agreement* under the second prong of Article V(1)(a) of the Convention, this ground for refusal is often invoked, but it is rarely successful in practice. In a case where the award debtor

48 Hungarian Supreme Court, Case Nos. BH+ 2015.5.209. and BH1998.184.
49 Hungarian Supreme Court, Case Nos. BH2007.130 and BH1996.375.
50 Hungarian Supreme Court, Case No. BH1997.34.
51 Vienna Convention on Diplomatic Relations, Done at Vienna on 18 April 1961. Entered into force on 24 April 1964. UN Treaty Series, Vol. 500, p. 95.
52 Curia of Hungary, Case No. BH2014.154; Hungarian Supreme Court, Case No. BH2009.252.

invoked Article V(1)(a) and tried to question the formal validity of the arbitration agreement by pretending that a separate written agreement to arbitrate was not entered into between the parties, the Hungarian courts rightly pointed out that the sales confirmation signed by him included an arbitration clause in favor of an arbitral institution seated in Hamburg, which was an arbitration agreement under the Convention.[53] In another case, where the parties entered into a bill of lading through the exchange of telex messages, which contained an English choice-of-law clause and an arbitral agreement in favor of an arbitral institution in London, the award debtor could not successfully resist enforcement, because in the court's view, it was governed by English law as *lex causae*, and the award debtor could not invoke any specific legal provision that would have rendered the arbitration clause invalid.[54] Finally, in another case involving the transfer of rights and obligations arising out of a shareholders' agreement and an option agreement, both including an ICC arbitration clause, the award-debtor unsuccessfully invoked Hungarian civil law, which at the time of the transfer did not allow for the transfer of an entire contractual position. The courts did not question the findings of the arbitral tribunal in relation to the transmission of the arbitral clause together with the main contracts.[55] The above examples illustrate the pro-arbitration approach of Hungarian courts when ruling on the validity of arbitration agreements in the award-enforcement phase.

4.2.3. Lack of Notice and Due Process Violations – Article V(1)(b)

The first prong of Article V(1)(b) of the Convention covers cases, where the award debtor can invoke the *lack of his notification about the arbitral appointment or arbitral proceedings*. Hungarian courts interpret this ground for refusal narrowly. For example in one particular case, the debtor returned the mail to the arbitration tribunal with the indication 'refused', but later, in the enforcement phase he acknowledged that the summons was duly received by him, therefore, the courts did not accepted his complaint regarding the 'lack of notice' about the arbitral proceedings.[56] In another case, the franchise contract of the parties included an arbitration clause and the next clause provided for a quite detailed regulation of the service of written communication between the parties. When the award debtor tried to resist the enforcement inter alia by relying on the improper service of documents during the arbitral proceedings, the Hungarian courts granted enforcement, highlighting that the documents of the arbitral proceedings were duly delivered to the representative of the losing party at the front desk of a restaurant, indicated in the service clause of the franchise contract.[57]

The second prong of Article V(1)(b) on the basis of which award debtors can resist enforcement by pretending that *they were unable to present their case* is not frequently applied either in domestic practice. For example a losing party, who

53 Raffai 2017, pp. 437-438.
54 Hungarian Supreme Court, Case No. BH1997.34.
55 Curia of Hungary, Case No. BH+2015.5.209.
56 Hungarian Supreme Court, Case No. BH2004.416.
57 Regional Court of Appeal of Budapest, Case No. 2201-3. Pkf.25.561/2019/2. (ÍH2019.94).

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actually participated in the arbitral proceedings, by being present at the oral hearing and sending written submissions to the tribunal could not successfully rely on this ground for refusal.[58] In the same way, the award debtor unsuccessfully tried to invoke the said provision, when during the arbitral proceedings the service of documents took place by courier service, and the arbitral award failed to give an exhaustive list about successful deliveries of all correspondences between the tribunal and the parties.[59] Award debtors often tried to invoke *due process violations* by relying on language barriers, like the conduct of arbitral proceedings in a foreign language, or the lack of correspondence in their mother tongue. These arguments, in the absence of a clear stipulation of the language of communication between the parties in the underlying commercial contract, were not successful.[60] Similarly, the sole fact that the Hungarian translation of the arbitral award had not been served upon the award debtor was not qualified as a violation of due process.[61] At the same time, it must be pointed out that in the domestic setting aside practice the reference to due process violations was generally successful in cases, where the arbitral tribunal requalified factual or legal issues, which prevented the party from presenting its case and the tribunal issued a 'surprise award'.[62] This latter domestic approach is generally in line with international case law on the Convention according to which surprise decisions are considered as a particular case of due process violations.[63]

4.2.4. Excess of Jurisdiction or Competence – Article V(1)(c)

Article V(1)(c) of the Convention allows national courts to *refuse the recognition and enforcement of the foreign arbitral award or the part of it,* where the award decides matters *"beyond the scope of the submission to arbitration"*. While the theory differentiates between excess of jurisdiction, which focuses on the issues that the arbitral tribunal was not authorized to consider, and excess of competence, which refers to the substance of the decision instead,[64] in practice, the difference between the above categories is often blurred. In relation with this ground for refusal in the Convention, Hungarian case law is quite meagre, but the domestic practice yields some useful analogies in connection with the standard approach of judges regarding the scope issues of the arbitration agreement.

For example, in a case, where the commercial agent asserted a claim relying on statutory legal basis before of the arbitral tribunal after the termination of his

58 Regional Court of Appeal of Budapest, Case No. 7. Pkf.26.013/2017/3. Cited by Gelencsér & Udvary (eds.) 2021, p. 718.

59 Regional Court of Appeal of Budapest, Case No. 2201-3. Pkf.25.561/2019/2. Cited by Gelencsér & Udvary (eds.) 2021, p. 718.

60 Regional Court of Appeal of Budapest, Case No. 3. Pkf.26.476/2015/2. Cited by Gelencsér & Udvary (eds.) 2021, p. 718.

61 Regional Court of Appeal of Szeged, Case No. Gpkf.II.30.001/2008/2. Cited by Gelencsér & Udvary (eds.) 2021, p. 718.

62 Hungarian Supreme Court, Case Nos EH 2011.2421 and EH 2008.1794.

63 Maxi Scherer, 'Article V', *in* Wolff (ed.) 2019, p. 320.

64 Christian Borris & Rudolf Hennecke, 'Article V', *in* Wolff (ed.) 2019, p. 324.

agency contract including an arbitration clause, the court held that the claim was contractual, since relevant statutory provisions became an integral part of the parties' commercial contract, and it could be pursued via arbitration even after the expiration of the contract. Thus, the court concluded that the arbitrators had not exceeded their jurisdiction neither *rationae materiae*, nor *rationae temporis*.[65] In another case, where the claimant's first relief sought was the returning of certain work tools (*rei vindicatio)* or, alternatively the payment of damages, and as a secondary injunction, he asked for the payment of non-pecuniary damages, the courts referred the dispute to arbitration, since in their opinion the arbitration clause covered these claims, arising out of the underlying commercial contract.[66] Finally, in another case the Supreme Court laid down that the concept of 'legal dispute' cannot be interpreted narrowly to cover only disputes arising out of a given contract, in case the parties concluded further contracts, with the aim to remedy the breach of the first one, including the arbitration clause.[67] The above broad interpretation of the subject-matter scope of the arbitration agreement by Hungarian courts is undoubtedly in line with the general limited standard of review, and the pro-arbitration approach of the Convention.

4.2.5. Improper Composition of the Tribunal or Flawed Arbitral Proceedings – Article V(1)(d)

By confirming the primacy of the parties' private autonomy in international arbitration, Article V(1)(d) of the Convention allows for the refusal of the recognition and enforcement of a foreign arbitral award in case *the composition of the tribunal or the arbitral procedure was not in accordance with the parties' agreement, or with the law of the country where the arbitration took place.* Since the domestic case law in relation to this provision of the Convention is quite scarce, it is worth recalling how Hungarian courts approached these issues in domestic setting aside proceedings. Hungarian courts rightly prevented the defendant from raising the issue of the irregular composition of the tribunal at a later stage of the proceedings, when he declared at the first hearing that he did not have any objection against the arbitral tribunal.[68] This approach is in line with the *'doctrine of preclusion' or 'waiver'* applied by most developed jurisdictions in similar cases.[69] However, regarding procedural irregularities, sometimes the Supreme Court took a perhaps too conservative approach, *e.g.* in a case when it annulled the arbitral award made by two arbitrators, after the third withdrew from office during the deliberation, reproaching the truncated tribunal that it failed to wait for a new arbitrator's appointment.[70] Some years later, the highest judicial forum went even further by annulling an arbitral award because of a failure to observe the

65 Hungarian Supreme Court, Case No. BH2007.411.
66 Hungarian Supreme Court, Case No. BH2009.186.
67 László Kecskés & Katalin Murányi, 'A hazai és a külföldi választottbírósági ítéletek végrehajtásának elrendelésével kapcsolatos gyakorlati tapasztalatok Magyarországon', *Magyar jog,* 2013/03, p. 135.
68 Hungarian Supreme Court, Case No. BH2006.218.
69 Gaillard & Bermann 2017, p. 216.
70 Hungarian Supreme Court, Case No. BH2010.96.

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deliberation in 'closed session' rule set forth under the rules of procedure of an arbitral institution.[71] Even if it is well established case law in Hungary that absent express parties' agreement to the contrary, the provisions of the Civil Code of Procedure are not applicable in arbitral proceedings,[72] the above decisions indicate an overly strong formalism when it comes to compliance with procedural rules. This is hardly reconciliable with the pro-arbitration spirit of the Convention, demonstrated by the case law of most arbitration-friendly jurisdictions, where only substantial defects in the arbitral procedure and/or a causal nexus between the procedural defect and the award can be considered as a procedural irregularity within the meaning of Article 5(1)(c).[73] Hopefully, this strong formalism regarding procedural irregularities in domestic matters will not be transplanted to the judicial practice related to the Convention.

4.2.6. Non-Binding Award – Article V(1)(e)

According to Article V (1) (e) of the Convention, the recognition and enforcement of the award can be refused, if *it has not yet become binding on the parties or it has been set aside or suspended in the country of origin.* While Hungarian court practice has not yet produced any decision in relation to the enforcement of annulled awards, which is one of the most interesting and polarizing issues of the Convention, the domestic courts had the opportunity to address the issue of non-binding and suspended awards.

In a recent enforcement procedure, where the award debtor invoked Article V(1)(e) by pretending that in the country of origin the award had not been properly served to him, the court highlighted that "binding" nature shall mean either that there is no ordinary legal remedy available against the award, which can have suspensory effect, or that the award has been declared immediately executable by the arbitral tribunal. These questions are independent from the issue whether the award has been served upon the debtor, which fact can be relevant only from the perspective of the performance deadline. However, this issue falls outside the scope of the recognition of the award under the Convention.[74] The case law of Hungarian courts confirms that the sole fact of instituting setting aside proceedings against the award in the country of origin does not justify the application of Article V(1)(e) of the Convention.[75] However in a case, where the award had been suspended in the country of origin, the Hungarian courts refused recognition and enforcement.[76]

4.2.7. Inarbitrability, Violation of Public Policy – Article V(2)

While Article V(1) of the Convention sets forth the grounds for refusal to be invoked by the party resisting the enforcement of the arbitral award, Article V(2)

71 Curia of Hungary, Case No. BH2017.126.
72 Hungarian Supreme Court, Case No. 1999/9. VBH I (Gfv. VI. 30.111/1999).
73 Gaillard & Bermann 2017, p. 212.
74 ÍH2021.22.
75 Curia of Hungary, Case No. BH+2013.1.31.
76 Regional Court of Appeal of Debrecen, Gpkf.III.30.289/2007./4. Cited by Gelencsér & Udvary (eds.) 2021, p. 723.

includes two further grounds for refusal that may be observed by the state courts absent any award debtor reference, *ex officio*. When it comes to Article V(2)(a) of the Convention, allowing courts to refuse the award recognition or enforcement in case *the matter was not capable of being settled by arbitration, there is no available decision in Hungary*. Given that in accordance with the Convention, the issue of objective arbitrability shall be evaluated under the *lex fori*, it is worth mentioning that the current Hungarian Arbitration Act[77] renders only the following three categories of disputes to be not arbitrable: *(i)* the disputes arising out of consumer contracts, with the exception of trusts contracts; *(ii)* the disputes which are regulated as special proceedings under the Code of Civil Procedure;[78] and *(iii)* the proceedings falling under the scope of the Code of Administrative Court Procedure. At the same time, it is doubtful whether this is an exhaustive list, because the case law presented in relation with the enforcement of arbitration agreements above indicated that certain company matters could also be considered as ones that cannot be resolved by arbitration. As regards Article V(2)(b) of the Convention, there is an abundance of cases where award debtors invoked the violation of public policy to resist the enforcement of the foreign award in Hungary.

It is well-settled case law in Hungary that recognition may be refused on the basis of the *violation of public policy* in accordance with Article V(2)(b), if the recognition of the foreign award would have consequences beyond the legal relationship of the parties and it would manifestly or severely violate fundamental rights, domestic social values and the socio-economic order.[79] Based on the above, in line with the above narrow interpretation of public policy violation, the Hungarian courts were reluctant to refuse award recognition *inter alia*, when the award debtor referred to the failure of the arbitral tribunal to postpone the hearing despite its request,[80] or when the debtor relied on ongoing criminal procedures against its former managing director.[81]

While scholars and developed jurisdictions differentiate between the violation of domestic public policy and international public policy, conceiving the second one as a smaller set, and arguing that the recognition of the foreign arbitral award should be refused only in case of a violation of the latter, such a sophisticated distinction was missing for a long time from the domestic practice of the Convention. However, in the last decades, the case law produced some signs of development in this field. Regarding substantive public policy, Hungarian case law sheds some light on the line of demarcation between domestic and international public policy, by holding in an annulment case that *the unusually*

77 Section 1(3)-(4) of the Hungarian Arbitration Act.

78 Act CXXX of 2016 on the Civil Procedure Code regulates the following litigations as special proceedings: disputes concerning civil status, guardianship, matrimonial cases, disputes concerning origin, actions for custody of a child; action for the dissolution of adoption; actions for child maintenance; certain actions for personality rights; labor disputes; enforcement actions; actions in relation to notary decisions.

79 Curia of Hungary, Case No. BH+2015.209.

80 Hungarian Supreme Court, Case No. BH2003.505.

81 Curia of Hungary, Case No. BH+2015.209.

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high attorney's fees could be grounds for setting aside a domestic award, while the same reason could not serve as grounds to refuse the recognition of a foreign arbitral award.[82] When it comes to procedural public policy, two recent appellate court decisions merit attention. In the first case, the appellate court firmly rejected to examine the issue of delivery of documents and its alleged consequences for the procedural rights of the losing party under the lens of public policy. It thereby limited the examination of the losing party's allegation of the potential violation of the due process principle set forth in Article 5(1)(b) of the Convention.[83] In the other case,[84] where the award debtor invoked the violation of public policy because the arbitral award had allegedly not been served upon him, the appellate court referred to the judgment of the Hungarian Supreme Court,[85] delivered under similar factual circumstances but in an enforcement procedure of a foreign state court judgment under the Brussels I Recast Regulation.[86] While in domestic cases the Hungarian courts exhibit a tendency to set aside arbitral awards on purely procedural grounds,[87] the decisions rendered in the two above-mentioned international cases indicate a more restrained attitude. According to this latter approach, the party resisting the enforcement of a foreign court judgment or arbitral award must show some serious procedural irregularity and the real effects of the alleged procedural breach on the merits of the case, in the absence of which the violation of procedural public policy cannot be invoked with success to refuse recognition and enforcement. In this vein, the two Hungarian appellate courts showed in the above-mentioned cases that they interpret Article V(2)(b) of the Convention narrowly when it comes to the public policy exception on procedural grounds. In addition, by applying the same procedural public policy test under two different supranational legal sources, the two above-mentioned court decisions demonstrate that Hungarian higher courts have started to adopt a unified approach to this concept in international cases.

5. Conclusions

As mentioned above, the Convention was in the state of 'hibernation' in the first three decades after its entry into force in Hungary. The domestic judicial practice forged from the '90s onwards shows a somewhat mixed picture, where arbitration-friendly tendencies and some parochial trends can be discerned at the same time.

Regarding the subject-matter scope of the Convention, the arbitration-friendly approach of Hungarian courts is demonstrated by the narrow application

82 Hungarian Supreme Court, Case Nos. BH.2003.127. and BH 2007.130, respectively.
83 Regional Court of Appeal of Budapest, Case No. 2201-3. Pkf.25.561/2019/2. (ÍH2019.94).
84 Regional Court of Appeal of Szeged, Case No. Gpkf.III.30.174/2020/2. (ÍH2021.22).
85 Curia of Hungary, Case No. BH 2012.98.
86 Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
87 Curia of Hungary, Case Nos. BH2016.122. and EH 2010.2150.

of the commercial reservation. When it comes to the recognition and enforcement of arbitration agreements, domestic insecurity in the field of applicable law can be explained partially by the absence of a conflict of laws rule in Article II of the Convention, which creates room for the 'traditional' *lex fori* approach. Since the latter can coincide with parochial domestic case law on contract creation where GTCs are present, the domestic 'climate' is capable of undermining the efficiency of international arbitration agreements. While the case law of objective arbitrability is in line with the general standards, the *prima facie* approach, taken in the bad sense, in case of insolvency of one of the parties is a telling sign of formalism. This can be a further obstacle to enforce the parties' agreement to arbitrate in international matters. In the award enforcement stage, some formalistic tendencies may be discerned as well, which risk the successful enforcement of the award: the orthodox interpretation of Article IV of the Convention and the rigid adherence to full compliance with all formal requirements by award creditors can give a significant advantage to award-debtors to frustrate enforcement in Hungary. Hopefully, as regards the substantive issues, it is the pro-arbitration approach of the courts that is dominant: the general governing principles for refusal under Article V are widely respected and applied, therefore, foreign awards were not reviewed on the merits by Hungarian courts, and award-debtors were unsuccessful in invoking grounds not listed by the Convention, as well as in their attempts to reverse the burden of proof. Furthermore, the grounds for refusal of recognition and enforcement in Articles V(1)-(2) were interpreted narrowly, in line with the dominant approach in other jurisdictions.

While the legislative gap in Article II of the Convention was a contributing factor to some unfortunate decisions in the pre-award stage, threatening the efficiency of arbitration agreements, the same problems were not detectable in the context of Article V(1)(a) of the Convention, and Hungarian courts enforced arbitral awards by applying foreign law to the arbitration agreement in the post-award phase. In addition, there are promising developments in the context of Article V(2)(b) of the Convention, when it comes to distinguishing between domestic and international public policy, both on a substantive and procedural level. This sophisticated approach sends the positive message that Hungarian courts understand the difference between domestic and international arbitration. Overall, the balance of the application of the Convention is positive, and with the exception of the above issues, we can conclude that Hungarian courts adopt mostly a pro-arbitration approach when recognizing and enforcing arbitration agreements and foreign arbitral awards.

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