

ANGOLA ACCEDES TO THE NEW YORK CONVENTION

Last August 12, the Resolution No. 38/16, was published in the Official Gazette of the State, by which the National Assembly approved the accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, celebrated on June 10 1958, in New York, best known as the New York Convention (“NYC”).

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This has been a long-awaited moment and a decisive step towards arbitration in Angola, which should be welcomed by investors and Angolan companies, since it represents an attraction for drawing investment to the country, in particular foreign investment.

However it should be noted that the process of joining the NYC is not yet completed. In order for the NYC to enter into force in Angola ratification is required by the President of the Republic and the guarantee of such instrument of ratification with the Secretary-General of the United States, as provided in the Constitution of the Republic of Angola and in that convention.

NYC is one of the most recognized and accepted conventions by the international community. With 157 Contracting States, it has contributed very significantly to the simplification and harmonization of recognition procedures and enforcement of foreign arbitral awards in these signatory countries.

According to Resolution No. 38/16 now published, Angola formulates a reservation (that the NYC admits possible) based on the principle of reciprocity: the provisions of the Convention will only apply when the arbitral awards in question are made in the territory of other Contracting States and recognized by the Angolan State, ie the application of the provisions of the Convention will depend on the arbitral seat in question whether it is in a Contracting State or not.

Membership into the NYC will provide more predictability to the process of recognition and enforcement of foreign judgments in Angola, in that it establishes that each Contracting States shall recognize arbitral awards as binding and enforce them in accordance with the arbitration rules of the seat of arbitration, not owing to substantially more onerous conditions than those established for the recognition and enforcement of imposed domestic arbitral awards.

Among the main differences that are anticipated in relation to the current regime, we underline the future inapplicability of Article 1096 of the Angola Civil Procedure Code regarding the requirements for foreign award confirmation which will be replaced by Articles IV and V of Convention when encountered with an arbitral award handed down in another Contracting State to the Convention.

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