problem through artificial unification and promotion of general international law. Solution is seen in further progressive development of international law. Since tribunals have already consistently decided to follow their own approaches to attribution, this sphere will remain fragmented and inconsistencies would be overcome separately within each particular regime.

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## Grounds for refusal of recognition and enforcement of foreign arbitral awards

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The grounds for refusal to recognize foreign arbitral awards are provided for in Article V of The New York Convention and are divided into two groups: the foundation of a private character (Article V, Paragraph 1 of The New York Convention) and the foundation of a public character (Article V, Paragraph 2 of the New York Convention).

In the first case, the refusal should be granted if the recognition of the decision would violate the rights of the individual debtor and in the second case if the public interest of the state would suffer. In particular, the recognition and execution of decisions of foreign courts is characterized by such a basis as the attribution of

the case to the exclusive jurisdiction of the court or other body of the called party. In recognition and enforcement of a foreign arbitral award the refusal to recognize and enforce this decision, is characteristic if the object of the dispute cannot be the subject of arbitration under the laws of the state, in which recognition or enforcement is sought. Both of the above examples are of public character and can therefore be applied by the competent court on its own initiative, regardless of the will of the debtor.

M.P Goronkov stresses that the contradiction to public policy can be directed or potential, but in both the cases it is a real threat to the system of social values which serves as the basis for the formation of the law of a particular country. Such a threat could reveal in the same degree either a foreign decision, the recognition of which the court of this country filed an application, or the rule of foreign law, which the parties have agreed to apply, when considering the case by the court of this country [1].

The party against which the foreign decision is directed, objecting the recognition of such decision, has the right to refer to the bases of both private and public character.

According to Paragraph 1, Article 5 of The New York Convention [2], recognition and enforcement of an arbitral award may be refused, if the party, against which the decision is made, presents evidence of at least one of the following circumstances:

(a) The parties to the agreement referred to in Article II were, under the law applicable to them, under some incapacity, or the mentioned agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the arbitral award was made;

Here it must be specially noted that in considering the issue of incapacity, one should be guided solely by the law which regulates the legal position of the party concerned. The objecting party is obliged to provide evidence of its incapacity.

(b) The party against which the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present their case;

To other causes, in which a party had no opportunity to present their case the following should be applied: notification of the party about arbitration proceedings in time, insufficient time for preparation and appearance in the place of court session; holding a court session in an obviously inconvenient or inaccessible place for the party (for example, on the territory of the country, entry to which is prohibited for the party, etc.); non-delivery to the party of copies of the materials submitted to the arbitration court by its opponent; failure to notify the parties about the change of her opponent originally stated requirements, or the application of the additional requirements; the actual rejection of the party in the court room, etc.

In the Republic of Belarus (Part Two of Article 41 of the law of The Republic

of Belarus “On the International Arbitration Court”) it is customary to define the finality of arbitration decisions on the law of the state, on the territory of which it was issued and since its issuance. It should be noted that this approach is in line with the recommendations of the UNCITRAL Model Law Commission, which decided that the determination of the moment at which the decision becomes mandatory, must be governed by the law of the state in whose territory the decision was made. It should be emphasized that the award is not appealed on the merits.

It should be particularly stressed that the public grounds are defined in Article V, Paragraph 2 of The New York Convention.

It should be underlined that the Code of Civil Procedure provides for different grounds for refusal to recognize and enforce decisions of foreign courts and foreign arbitral awards.

Thus, the basis is provided by Part 1 of Article 248 of the Code of Civil Procedure, with the exception of the grounds provided in the norm of paragraph 8, Part 1, Article 248, the recognition and enforcement of foreign arbitral awards shall not be applied.

However, this does not mean that a refusal to recognize and enforce a foreign arbitral award can only occur in the case of, if the execution of a foreign decision would be contrary to the public order of the Republic of Belarus. Within the meaning of Part 2 of Article 248 of the Code of Civil Procedure, the court refuses to recognize and enforce a foreign arbitral award on the grounds of private and public nature provided for by The International Treaty of the Republic of Belarus.

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## Правовое регулирование деятельности налогового консультанта в Республике Беларусь

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Институт налоговых консультантов уже много лет существует в государствах Европейского союза. В Республике Беларусь данный институт появился относительно недавно. Был введен Указом Президента Республики Беларусь № 338 (далее Указ) [1]. Научных исследований посвященных правовому статусу налогового консультанта практически нет. Полагаем, что исследование деятельности налоговых консультантов и ее правового регулирования представляется актуальным.

Дефиниция «налоговый консультант» закреплено в ст. 41 Указа, согласно которой «налоговый консультант – гражданин Республики Беларусь, иностранный гражданин или лицо без гражданства, имеющие квалификационный аттестат и являющиеся членами Палаты налоговых консультантов» [1]. Согласно ст. 6 Указа, кандидат на должность налогового консультанта должен иметь диплом о высшем юридическом или экономическом образовании и опыт работы по специальности после получения высшего образования не менее 3 лет. Допускается наличие диплома об ином высшем образовании при условии прохождения переподготовки на уровне высшего образования по вышеуказанным направлениям. Что касается членства в Палате налоговых консультантов, то оно является обязательным для каждого лица, желающего осуществлять свою профессиональную деятельность в данной сфере.

Для осуществления своей деятельности налоговый консультант обязан быть зарегистрированным в качестве индивидуального предпринимателя или состоять в штате коммерческой организации, которая является основным местом его работы.

Основными функциями налоговых консультантов являются: консультирование лиц по вопросам налогообложения; поиск оптимальных и эффективных решений относительно конкретных ситуаций; другие функции, предусмотренные Указом Президента № 338 [1]. Данные функции налоговые консультанты реализовывают на основе договора возмездного оказания услуг по налоговому консультированию.