

Research Article

ENFORCEMENT OF FOREIGN ARBITRAL AWARDS IN KAZAKHSTAN: A COMPARATIVE LEGAL ANALYSIS OF EUROPEAN AND ASIAN MECHANISMS

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ABSTRACT

Background: Enhancing the efficiency of Kazakhstan's recognition and enforcement of foreign court and arbitral awards relies significantly on expanding international cooperation. In the context of increasing global legal integration, this strategy is vital not only for supporting the country's foreign economic activities but also for increasing foreign partners' confidence in Kazakhstan's judicial system. Currently, Kazakhstan is a party to key treaties including the 1958 New York Convention, the 1965 Washington Convention, and the 1993 Minsk Convention. However, it has yet to join the 2019 Hague Convention—a modern, universal mechanism supported by numerous countries, including EU member states and the United States—which could further streamline cross-border enforcement processes.

Methods: To achieve the objectives, a comparative legal analysis was conducted on the mechanisms for recognising and enforcing foreign arbitral awards in Kazakhstan and leading arbitration jurisdictions across Europe and Asia. This analysis used official court databases from Kazakhstan, AIFC and IAC, as well as supplementary data from court archives, institutions (KIAC, ICC, SIAC), and the CLOUT abstracts, enabling a comprehensive comparison with Asian and European jurisdictions. The study employed methods such as statistical analysis of refusals under Article 501 of the Civil Procedure Code, and a comparative review of national legislation against the provisions of the New York Convention and UNCITRAL.

Results and Conclusions: Analysis indicates that over 40% of refusals to recognise and enforce foreign arbitral awards in Kazakhstan are due to vague interpretations of public policy and procedural obstacles, whereas in pro-arbitration jurisdictions across Europe and Asia, such refusals do not exceed 10%. The proposed Kazakhstan Arbitration Enforcement Mechanism (KAEM) includes clarifying criteria for refusals and decision-making based on Article V of the New York Convention, introducing accelerated electronic procedures via a unified e-Justice portal, establishing specialised judicial training programs, and implementing a mechanism for returning awards to arbitral tribunals to address formal obstacles rather than automatic refusals. The authors suggest expanding the contractual framework, acceding to new international conventions, adopting progressive mechanisms from the EU and UNCITRAL, and integrating digital solutions to enhance Kazakhstan's legal enforcement practices, boost its attractiveness as a regional arbitration hub, and strengthen legal certainty and foreign investor confidence.

1 INTRODUCTION

The relevance of this research topic stems from the urgent need to enhance the system for recognising and enforcing foreign arbitral awards in Kazakhstan, which is fundamental to establishing an effective arbitration framework aligned with the country's international legal commitments. The issue of enforcing international norms, particularly mechanisms for enforcing arbitral awards, becomes increasingly significant amid Kazakhstan's expanding economic relations with China, Turkey, the United Arab Emirates, the United Kingdom, and other countries.

Despite Kazakhstan's ratification of key international conventions such as the 1958 New York Convention,¹ the 1965 Washington Convention,² and the 1993 Minsk Convention,³ it has yet to accede to the 2019 Hague Convention.⁴ This limits the effective application of international standards, creating legal uncertainty and hindering the further development of cross-border justice.

The system for recognising and enforcing foreign arbitral awards in Kazakhstan continues to encounter a range of legal and technical challenges, including the absence of clear reciprocity criteria, the requirement to adhere to strict notification procedures, and vague

1 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) (10 June 1958) <<https://www.newyorkconvention.org/english>> accessed 2 April 2025.

2 Convention on the Settlement of Investment Disputes between States and Nationals of other States (Washington Convention) (18 March 1965) [1966] UNTS 575/159.

3 Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases (Minsk Convention) (22 January 1993) <<https://www.unhcr.org/media/convention-legal-aid-and-legal-relations-civil-family-and-criminal-cases-adopted-minsk-22>> accessed 2 April 2025.

4 Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Hague Convention 2019) [2022] OJ L 187/4.

interpretations of public policy.⁵ For instance, Kazakhstani courts often demand paper-based or notarised notifications, despite the fact that countries such as China, the UK, and the US adopt more flexible approaches in this regard.⁶ Additionally, there is a tendency to interpret public policy broadly, leading to refusals to recognise decisions of foreign courts and arbitral bodies even when those decisions align with international standards. For example, in several cases involving the recognition of Chinese and Singaporean arbitral awards, Kazakhstani courts have cited concerns about threats to economic stability or violations of other "state interests"—an approach that contradicts established international practice.⁷

The significance of this study lies in the need for a comprehensive analysis of Kazakhstan's law enforcement practices concerning the enforcement of foreign arbitral awards. Further development of theoretical research is also essential, as existing studies primarily focus on theoretical and methodological foundations but lack practical mechanisms to address legal conflicts arising from the application of reciprocity principles and the interpretation of public policy.⁸ Bridging this gap in theoretical understanding is particularly relevant not only for Kazakhstan's legal system but also for the broader field of international arbitration.

The practical relevance of this research stems from its focus on addressing specific issues within Kazakhstan's judicial practice related to the recognition and enforcement of foreign arbitral awards. In the context of globalisation and growing economic ties,⁹ it is crucial for

- 5 Dinmukhamed Aktay and Azamat Nurtan, 'Recognition and Enforcement of Foreign Arbitral Awards: The Practice of Applying the New York Convention of 1958 (By the Example of Comparison of the Legislation and Practice of China and Kazakhstan)' (*ResearchGate*, November 2023) <<https://www.researchgate.net/publication/375494529>> accessed 20 May 2025; Luca G Radicati di Brozolo and Flavio Ponzano, 'How to Assess the Res Judicata Effects of International Arbitral Awards: Giving Concreteness to an Autonomous Approach' (2024) 40(4) *Arbitration International* 409, doi:10.1093/arbit/aiae020.
- 6 Madi Kenzhaliyev, 'Perspectives of the Court of the Astana International Financial Centre: Potential to Transform the Central Asian Legal Landscape' (2024) 19 *Asian Journal of Comparative Law* 160, doi:10.1017/asjcl.2023.37.
- 7 Riza Marhaba and Zhuldyz Sairambaeva, 'Legal Mechanisms of Functioning of the AIFC Arbitration System' (2024) 110(2) *Journal of Actual Problems of Jurisprudence* 173, doi:10.26577/japj2024-110-b-016; Ardak Shaimenova and others, 'Development of the Institution of Arbitration in Kazakhstan: Problems of Theory and Practice' (2020) 11(1) *Journal of Advanced Research in Law and Economics* 169, doi:10.14505/jarle.v11.1(47).21.
- 8 David N Luder and Louis Christe, 'US Courts' Assistance to International Arbitrations: Recent Developments and Impact on Arbitrations Seated in Switzerland' (2022) 40(4) *ASA Bulletin* 777, doi:10.54648/asab2022070; Maidan Suleimenov and others, 'Recognition and Enforcement of Arbitration Awards in Kazakhstan' (2018) 5(5) *The Journal of Social Sciences Research* 358; Yi Tang, 'Charting a New Legal Order: ASEAN's Arbitration Reform in Taming the "Unruly Horse" of Public Policy Exception' (2024) 41 *Chinese (Taiwan) Yearbook of International Law and Affairs* 112, doi:10.1163/9789004719934_006.
- 9 Ljuben Kocев, 'Challenges in the Process of Recognition and Enforcement of Foreign Arbitral Awards in the Republic of North Macedonia' in Marc Bungenberg and others (eds), *Alternative Dispute Resolution in the Western Balkans: Trends and Challenges* (European Union and its Neighbours in a Globalized World, Springer 2025) 67, doi:10.1007/978-3-031-76345-8_5.

Kazakhstan to develop a legal framework aligned with international standards, as this would help enhance the investment climate, reduce legal uncertainty, and improve the predictability of judicial decisions.

The object of this study is the system for recognising and enforcing foreign arbitral awards in Kazakhstan, along with the international treaties and legal norms that regulate these processes. The subject of the research focuses on law enforcement aspects concerning the interaction between Kazakh courts and international arbitration bodies, as well as an analysis of the principles of reciprocity and public policy as they relate to the recognition and enforcement of arbitral awards.

This study aims to conduct a comparative legal analysis of the mechanisms for recognising and enforcing foreign arbitral awards in Kazakhstan and in selected countries that are leaders in international arbitration law, including Switzerland, France, Germany, Singapore, and Hong Kong.

To achieve this goal, the following research tasks will be addressed:

1. To analyse the law enforcement practices of Kazakhstani courts and international arbitration institutions, such as the Astana International Financial Centre (AIFC) and the International Arbitration Court (IAC), with a focus on the application of the principles of reciprocity and public policy.
2. To compare the recognition and enforcement systems for foreign arbitral awards in European and Asian countries – specifically Switzerland, France, Germany, Singapore, and Hong Kong–highlighting features that minimise judicial intervention and streamline procedures.
3. To examine legislative reforms aimed at clarifying the principle of reciprocity and introducing flexible procedures aligned with international standards.
4. To develop recommendations for enhancing national legislation and improving cooperation between state courts and arbitration institutions, considering the specific characteristics of the Kazakhstani legal system.

The authors of this research will develop recommendations to enhance the national legal framework, aligning it more closely with international standards and fostering more effective dispute resolution through international arbitration. Such improvements can significantly enhance Kazakhstan's investment climate and strengthen the confidence of international partners and investors. Therefore, this study contributes to the advancement of both the theory and practice of international arbitration, offering innovative approaches to improving law enforcement practices within Kazakhstan.

2 THEORETICAL BACKGROUND

The recognition and enforcement of foreign arbitral awards are crucial aspects of international commercial law. In Kazakhstan, challenges in this area primarily stem from inconsistent and often formalistic court practices rather than the absence of a legal framework. Although the country's national legislation and international commitments establish the necessary legal mechanisms, their practical application remains ineffective or contradictory, undermining the effectiveness of enforcement processes.

Based on the analysis of judicial practice from 2019 to 2024, as presented in the Supreme Court of Kazakhstan's Review,¹⁰ approximately 10 to 40% of refusals to recognise foreign decisions were justified by references to violations of public policy. This proportion is notably higher than in the legal practices of the EU, the US, and Singapore, where such refusals rarely exceed 10%.¹¹

Additionally, courts in the Republic of Kazakhstan frequently refuse recognition on formal grounds not stipulated by the 1958 New York Convention. For example, there are cases in judicial practice in which recognition was denied due to the absence of an apostille, even when the decision was eligible for recognition under the New York Convention, which does not require apostilization of documents.¹²

Another issue is the prolonged duration of proceedings for recognising decisions. Although Article 502 of the Civil Procedural Code of the Republic of Kazakhstan (CPC RK)¹³ does not specify a maximum timeframe for consideration, in some cases the process extended up to 4-6 months, which conflicts with the principle of promptness in international justice.

The AIFC promote Kazakhstan as a regional arbitration hub.¹⁴ It offers a modern and transparent dispute settlement platform based on English common law and features an independent arbitration court. Despite these advancements, implementing international arbitral awards is still problematic. Concerns surround the court's inconsistent responses to arbitration; in some cases, courts intervene by assessing arbitral awards on their merits rather than adopting the New York Convention.¹⁵ The

10 'Case Law Reviews' (*Supreme Court of the Republic of Kazakhstan*, 2025) <<https://sud.gov.kz/rus/content/obzory-sudebnoy-praktiki>> accessed 20 May 2025.

11 *UNCITRAL Secretariat Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)* (UN 2016).

12 Valikhan Zharaskanovich Shaikenov and Ardak Turekhanovna Idayatova, 'The Problem of Choosing Applicable Law to Arbitration and the Arbitration Agreement in the Context of the Kazakhstan Legislation' (2017) 1(46) *Bulletin of the Institute of Legislation of the Republic of Kazakhstan* 120.

13 Civil Procedural Code of the Republic of Kazakhstan No 377-V LRK of 31 October 2015 <<https://adilet.zan.kz/eng/docs/K150000037>> accessed 20 May 2025.

14 Kenzhaliyev (n 6).

15 Radicati di Brozolo and Ponzano (n 5).

uncertainty produced by this judicial overreach discourages parties from choosing Kazakhstan for Arbitration.¹⁶

Aladaseen¹⁷ argues that the validity and practicality of arbitration as a dispute resolution method are seriously weakened under such conditions. Solis¹⁸ examines adverse inferences in investor-state arbitration, where arbitrators may draw negative conclusions from a party's failure to produce evidence. Despite this ability, arbitrators are cautious about drawing negative conclusions, as they may harm evidence and compromise fairness. Gunning¹⁹ examines proposed revisions to Section 67 of the UK Arbitration Act 1996, which aim to limit arguments and evidence for challenging arbitral awards. However, whether these adjustments are necessary to make arbitration final and efficient remains a subject of debate.

Switzerland and France have taken measures to minimise procedural delays, while several Asian nations have introduced productivity-boosting systems. For instance, Singapore's International Arbitration Act (IAA)²⁰ sets enforcement request timelines, enhancing procedural predictability. Hong Kong's Arbitration Ordinance (Cap. 609),²¹ which follows the UNCITRAL Model Law,²² facilitates swift and transparent enforcement.²³ Kazakhstan could similarly improve efficiency by adopting digital case management tools and expedited enforcement petitions.

Kazakhstan has moved toward arbitration-friendly conditions by creating the AIFC and its International Arbitration Centre.²⁴ Modelled after the most notable arbitration centres, the AIFC provides a neutral forum for dispute resolution under English common law.

- 16 Sauryk Abirbek, 'Problems of Recognition of Judgments and Other Acts of Unrecognised States in Private International Law' (2022) 1(138) Bulletin of LN Gumilyov Eurasian National University: Law Series 69, doi:10.32523/2616-6844-2022-138-1-69-77; 'Recognition and Enforcement of Foreign Arbitral Awards' (*Law and Right*, 20 September 2023) <<https://zakonpravo.kz/ru/priznanie-i-privedenie-v-ispolnenie-arbitrazhnyh-resheniy-inostrannyh-arbitrazhey>> accessed 2 April 2025.
- 17 Mohammed A Aladaseen, 'Unlocking Arbitration: Evolving Legal Standards for Commercial Agency Disputes in Jordan and the UAE' [2025] *International Journal of Law and Management*, doi:10.1108/ijlma-09-2024-0316.
- 18 Menalco J Solis, 'Adverse Inferences in Investor-State Arbitration' (2018) 34(1) *Arbitration International* 79, doi:10.1093/arbint/aix029.
- 19 Alexander Gunning, 'Has a Sufficient Case Been Made for the Law Commission's Proposals in Respect of Section 67?' (2023) 40(1) *Arbitration International* 25, doi:10.1093/arbint/aiad048.
- 20 International Arbitration Act 1994 (rev 2020) <<https://sso.agc.gov.sg/act/iaa1994>> accessed 2 April 2025.
- 21 Arbitration Ordinance (Cap 609 Laws of Hong Kong) <<https://www.elegislation.gov.hk/hk/cap609>> accessed 2 April 2025.
- 22 *UNCITRAL Model Law on International Commercial Arbitration 1985, with amendments as adopted in 2006* (UN 2008) <https://uncitral.un.org/en/texts/arbitration/modelaw/commercial_arbitration> accessed 2 April 2025.
- 23 Darius Chan, 'The Scope of "De Novo" Review of an Arbitral Tribunal's Jurisdiction' (2015) (Nov) *Singapore Law Gazette* 16 <https://ink.library.smu.edu.sg/sol_research/3038> accessed 2 April 2025.
- 24 Jędrzej Górski and Yun Zhao, 'Introduction: Challenges to Aviation Global Regulatory Milieu in the Geoeconomic and Long-History Context' in Jędrzej Górski and Yun Zhao (eds), *Aviation Law and Governance: Navigating Global Challenges and Conflicts* (Routledge Research in Air and Space Law, Routledge 2025) 1, doi:10.2139/ssrn.4953683.

Kazakhstan's interventionist policies make arbitration agreement enforcement uncertain; therefore, foreign investors avoid it.²⁵ French courts support arbitration autonomy and will only challenge a ruling if it violates international public policy.²⁶ Swiss law is known for its arbitration-friendly stance, which limits court involvement to procedural problems. Singapore and Hong Kong, two pro-arbitration regimes in Asia, restrict court participation to exceptional circumstances to increase public faith in their justice systems.²⁷

Table A1 (see Appendix 1) provides a structured overview of the primary sources that form the enforcement regime for foreign arbitral awards in Kazakhstan, comparing them with contemporary judicial practices of leading European and Asian jurisdictions. The analytical block discloses the latest amendments to the Law on Arbitration,²⁸ the Civil Procedure Code and regulatory decisions of the Supreme Court, which have strengthened formal control and specified the criteria of public order. The AIFC Court and state court precedents are further summarised, capturing the autonomy of the AIFC procedures and the problem of compound interest. The comparative section analyses the decisions of the Court of Cassation (France), the Federal Court of Justice (Germany), Singapore and Hong Kong courts, highlighting a trend towards narrow application of exceptions and the spread of remit-mechanism.

Contemporary studies by Suleimenov et al.²⁹ focus on the fundamental principle of recognition of arbitral awards—namely, the principle of reciprocity. However, these approaches overlook potential legal conflicts that may arise in the absence of bilateral agreements with Kazakhstan's major trading partners. Aukhadiyev³⁰ argues that Kazakhstan cannot fully integrate into the international legal system without applying the reciprocity principle. Yet, he fails to offer concrete recommendations to resolve emerging contradictions, such as the lack of clear criteria for establishing reciprocity. Conversely, Shaimenova et al.³¹ suggest legislative amendments to align domestic laws with international standards; however, their analysis remains purely theoretical and does not

25 Finnur Magnússon, 'Sanctions against Individuals and Investment Law' (2024) 27(1) Austrian Review of International and European Law Online 219, doi:10.1163/9789004705555_011.

26 Jan Kleinheisterkamp, 'The Myth of Transnational Public Policy in International Arbitration' (2023) 71(1) The American Journal of Comparative Law 98, doi:10.1093/ajcl/avad021.

27 Kai-Shen Huang, 'Internationalization as a Leap of Faith: Arbitration Reforms in China and the Challenges of Implementation' (2023) 10(2) Asian Journal of Law and Society 241, doi:10.1017/als.2022.23.

28 Law of the Republic of Kazakhstan No 488-V LRK of 8 April 2016 'On Arbitrage' <<https://adilet.zan.kz/eng/docs/Z1600000488>> accessed 2 April 2025.

29 Maidan K Suleimenov, 'Recognition and Enforcement of Foreign Arbitration and State Courts' Decisions on Investment Disputes: Kazakhstan's Experience' (*Paragraph: Yurist*, 13 May 2009) <https://online.zakon.kz/Document/?doc_id=31644606> accessed 2 April 2025; Suleimenov and others (n 8).

30 Maxat Aukhadiyev, 'Enforcement and Recognition of Foreign Arbitral Awards in Kazakhstan' (PhD thesis, University of Debrecen 2021).

31 Shaimenova and others (n 7).

account for the complexities of law enforcement in Kazakhstan, where judicial practice often diverges from international norms.

France and Switzerland are recognised for their arbitration-friendly legal systems. Owing to the consistent support of arbitral awards by French courts, enforcement judgments are rare.³² Luder and Christe³³ report that the Swiss Federal Supreme Court supports arbitration due to the parties' independence and the binding character of arbitration awards. Following the landmark BALCO case in 2012, India became more arbitration-friendly; however, procedural delays persist.³⁴

European courts, such as those in Sweden, Germany, and the UK, follow the Convention and employ minimal judicial review. German courts must have solid reasons to refuse enforcement under Article V of the Convention. Hong Kong's Arbitration Ordinance ensures compliance due to its prominence in the arbitration sector.³⁵ Indonesia and Vietnam have, however, been criticised for inconsistent enforcement, as they have sometimes invoked public-policy exceptions to withhold recognition.³⁶ Kazakhstan's implementation of the New York Convention remains uneven despite its status as a contracting state. Courts have occasionally declined to recognise claims on purely procedural grounds, often due to application errors.

In summary, the conducted analysis of recognition and enforcement of foreign judicial and arbitration awards in Kazakhstan indicates that the core issue lies not in the absence of a legal basis, but in incoherent and unnecessary formalised judicial practice. Despite Kazakhstan's national legislation and internal obligations providing the necessary legal mechanisms, their application in arbitral practice often proves to be ineffective or controversial.

3 METHODS

3.1. Research Design and Approach

In this study, the UK, France, Switzerland, Singapore, and Hong Kong are selected as comparative jurisdictions alongside Kazakhstan. Firstly, they represent different legal families—Anglo-American (Great Britain, Singapore, Hong Kong) and continental

32 Marie-Laure Bizeau and Aleksandra Fedosova, "Forum of Necessity": Using French Law's "Juge d'Appui" in Foreign-Seated Arbitrations as a Cure for Denial of Justice' (2022) 39(5) *Journal of International Arbitration* 749, doi:10.54648/joia2022032.

33 Luder and Christe (n 8).

34 Utkarsh Vaishnav, 'Judicial Intervention in Arbitration Related to BALCO Judgment' (2024) 7(5) *International Journal of Law Management and Humanities* 1474, doi:10.10000/IJLMH.118382.

35 Michael Hwang, Gokce Uyar and Cosima Wimmers, "The Enka v Chubb/Anupam Mittal v Westbridge Controversies: Why Not the Hong Kong (Partial) Solution?" (2024) 41(5) *Journal of International Arbitration* 531, doi:10.54648/joia2024023.

36 Tang (n 8).

(France, Switzerland)—allowing an assessment of how civilizational and procedural traditions influence arbitration award enforcement procedures. Secondly, all these jurisdictions have incorporated the provisions of the New York Convention and the UNCITRAL Model Law³⁷ into their national legislation, demonstrating high efficiency ("limited review") and prompt enforcement. Lastly, London, Paris, Geneva, Singapore, and Hong Kong are globally recognised as major centres of international arbitration, making their practices indicative for formulating universal recommendations to enhance Kazakhstan's arbitration enforcement framework.

This study is based on an analysis of arbitration proceedings in the Republic of Kazakhstan from 2014 to 2024. A total of 112 cases related to the enforcement of arbitral awards were selected: 88 from Kazakhstan (66 concerning domestic arbitral awards and 22 regarding foreign awards) and 24 from leading jurisdictions in the UK, France, Switzerland, Singapore, and Hong Kong. The selection criteria included:

1. Availability of primary sources (comprehensive court acts and registers accessible in the public domain);
2. Representativeness for analysis (cases that highlight typical procedural features and issues within the enforcement system);
3. Influence on the process (precedents that significantly impact the development of law enforcement practice).

Additionally, data from commercial arbitration were analysed to evaluate the compliance of national procedures with international standards, specifically the 1958 New York Convention and the 1961 European Convention,³⁸ and to support the proposed recommendations. The main sources of information included the following:

- (1) official databases of the RK courts and registers of the AIFC Court/IAC;
- (2) open statistical reports from international arbitration institutions such as UNCITRAL, ICC, SIAC, and LCIA;
- (3) publications and reports from the Kazakhstan International Arbitration Centre (KIAC).

Figure 1 shows the research flow of the study.

37 UNCITRAL Secretariat Guide (n 11).

38 European Convention on International Commercial Arbitration (21 April 1961) [1965] UNTS 484/349.



Figure 1. The research flowchart of the study

3.2. Methodology Justification and Legal Framework for the “Kazakhstan Arbitration Enforcement Mechanism (KAEM)”

The study proposes the Kazakhstan Arbitration Enforcement Mechanism (KAEM) to strengthen Kazakhstan’s legal environment for international arbitration enforcement. The mechanism aims to enhance Kazakhstan’s legal framework by aligning it with global best practices, taking into account its unique political, economic, and legal context. To implement this, the study proposes legislative reforms to Kazakhstan’s arbitration techniques to align them with those of Hong Kong, the UK, Singapore, Switzerland, and France. The legislation should clarify when courts may participate in arbitration cases, enhance the independence and assertiveness of arbitration institutions, and limit court involvement in arbitration processes to cases involving clear public policy violations.

3.2.1. Testing the KAEM’s Reliability

To test the mechanism, the study compares Kazakhstan’s arbitration success rates and enforcement processes to those of well-established jurisdictions. The KAEM—which aspires to reform Kazakhstan’s legal system—prioritises practical enforcement and conformity to its legal framework.

The KAEM framework rests on four key pillars that aim to support and enforce foreign arbitral awards in Kazakhstan:

1. Legal changes to make the arbitration rules easier;
2. Knowledge of judgment enforcement and judicial education;
3. Strengthening the arbitration centre institutions;
4. Government policy standardisation and openness.

The legal mechanisms behind the main discussed regulations and laws align Kazakhstan's arbitration apparatus with international standards and facilitate the implementation of arbitral awards.

I. Phase 1: Law changes to ease arbitration compliance.

The KAEM framework aims to align Kazakhstan's arbitration laws with international standards, particularly the UNCITRAL Model Law on International Commercial Arbitration and the 1958 New York Convention. This research advises modifying the CPC RK and the Law on Arbitration of 2016 to clarify international arbitral award recognition and enforcement. The law should codify enforcement, denial, and judicial role in arbitration, i.e.,

1. Courts should not review arbitral decisions, save as the New York Convention provides.
2. The party opposing enforcement should have the burden of proof, not the side seeking award recognition. These legislative reforms will enhance the legal validity of international arbitration, providing certainty to investors both domestically and abroad.

II. Phase 2: Judicial specialisation and training on arbitration enforcement.

Kazakh courts' unpredictability in treating foreign arbitral awards hinders the arbitration system. The KAEM framework suggests mandatory judicial training programs and specialised arbitration courts to address this issue.

Projects under this pillar include:

- **Create Specialised Arbitration Divisions:** International arbitration-experienced judges should conduct enforcement procedures to ensure uniformity and predictability.
- **Mandatory Training for Judges:** ICC, SIAC, and LCIA should collaborate on continuous education. This course will address essential arbitration laws, public policy issues, and best enforcement practices.
- **Introducing Judiciary Performance Metrics:** A system must assess how effectively judges adhere to international arbitration norms when ruling.

III. Phase 3: Institutionally empowering arbitration centres.

The third pillar focuses on strengthening arbitration institutions to drive enforcement efficiency improvements. The AIC and AIFC Courts are becoming increasingly significant in dispute resolution, but they require greater institutional support to effectively execute their enforcement mechanisms. Key recommendations include:

- Granting the AIFC Court the authority to enforce international arbitral awards, reducing reliance on local courts.
- Enhancing e-Justice, the online dispute resolution, to simplify the electronic implementation of arbitral awards with low procedural hurdles.
- Promote the inclusion of AIC or AIFC arbitration clauses in commercial contracts through government policy, thereby simplifying domestic enforcement procedures.

IV. Phase 4: Streamlining and discussing public policy.

Public policy remains a contentious topic when contesting foreign arbitral awards. Kazakhstani courts have made inconsistent enforcement awards due to their subjective public policy determinations. To solve this, the KAEM offers a PPSF or Public Policy Standardisation Framework.

- Kazakhstan's arbitration legislation should define "public policy" to comply with the "internationally recognised restrictive approach."
- Courts could only refuse enforcement for public policy reasons in fraud or due process violations.
- Public access to all public policy court opinions would improve consistency and legal clarity.

The KAEM framework limits the public policy exemption to prevent courts from interfering in arbitration enforcement.

3.2.2. Implementation and Feasibility of the KAEM

Institutional, judicial, and legislative adaptation must be gradual to apply the KAEM paradigm. A recommended three-step plan:

I. Phase 1 (Short-Term: 1-2 Years) – Legal and Institutional Reforms

- Declare public policy and enforcement boundaries in the Arbitration Law.
- Establish enforcement-related arbitration units in key courts.
- Develop judicial training programs with international arbitration bodies.

II. Phase 2 (Mid-Term: 3-5 Years) – Strengthening Enforcement Mechanisms

- This phase will bring all international arbitral award execution cases within the AIFC Court and AIC jurisdiction.
- Enforce digital arbitration using e-Justice.
- Set performance-based awards for arbitration-friendly court awards.

III. Phase 3 (Long-Term: 5+ Years) – Global Integration and Recognition

- Promote AIFC/AIC globally to establish Kazakhstan as a regional arbitration hub.
- Bilateral agreements with significant arbitration jurisdictions are suggested for mutual recognition of arbitral decisions.
- Establish higher education and public policy research institutions to explore the best arbitration techniques.

4 RESULTS AND DISCUSSIONS

The proposed KAEM presents a legally robust, globally transferable mechanism for reforming arbitral award enforcement in emerging jurisdictions. It aligns domestic enforcement with transnational legal standards and reinforces Kazakhstan's strategic role as a regional arbitration platform bridging Europe, Asia, and the Middle East. The mechanism ensures compliance with Kazakhstan's international obligations—particularly the 1958 New York Convention, the UNCITRAL Model Law, and emerging soft law standards—while addressing institutional fragmentation, legal unpredictability, and judicial overreach. It is not merely a set of legislative amendments but a juridical blueprint capable of elevating Kazakhstan to a leading dispute resolution hub within the wider Eurasian legal space.

KAEM application must begin with codified reforms to harmonise Kazakhstan's arbitration laws with globally accepted legal standards:

- Amendments to the Law on Arbitration (2016).
- Amendments to the CPC RK.
- Harmonisation of AIFC arbitration rules.

Recognising the judiciary's gatekeeping function in arbitration enforcement, KAEM recommends structural measures to consolidate competence and ensure consistent adjudication:

- Establishment of arbitration enforcement chambers within the judiciary, empowered to hear such cases with expedited procedures.

- Judicial training must be conducted with consideration for the best examples of international arbitration practices observed in leading world jurisdictions, such as Singapore or the UK.
- Adoption of interpretive consistency through centralised publication of key decisions, aligning Kazakhstan's courts with common law jurisdictions where predictability and reasoning matter in cross-border enforcement.

4.1. Regional Arbitration Infrastructure and Transnational Partnerships

KAEM is expected to transform Kazakhstan into an acknowledged arbitral jurisdiction:

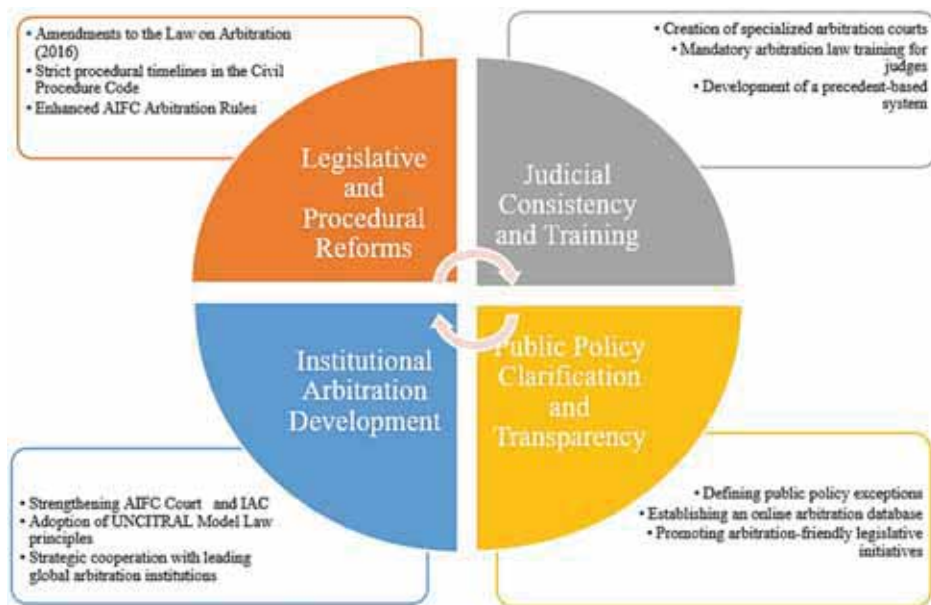
- The AIFC Court and its affiliated IAC are positioned to serve as neutral English-speaking platforms applying internationally consistent rules.
- Full adoption of UNCITRAL principles ensures jurisdictional compatibility, facilitating seamless enforcement of foreign awards.
- Strategic cooperation with leading arbitral bodies (LCIA, SIAC, ICC, HKIAC, Swiss Arbitration Centre) fosters a shared legal culture. It promotes Kazakhstan as a venue for dispute resolution for Belt and Road Initiative countries, Eurasian Economic Union members, and Gulf investors.

4.2. Public Policy Transparency and Legal Openness

KAEM addresses one of the most controversial aspects of enforcement—the abuse of public policy exceptions—by promoting transparency and principled adjudication:

- Narrowing the public policy doctrine: Courts should be guided by a codified and restrictive interpretation of public policy exceptions, consistent with international arbitral jurisprudence.
- Creation of a centralised enforcement database: a publicly accessible online repository of enforcement-related case law, procedural timelines, and outcomes will support transparency and the development of coherent doctrine.
- Policy consultation and stakeholder dialogue: Legal and business stakeholders must be systematically engaged in legislative development to maintain alignment with international market expectations.

Figure 2 illustrates the structure of KAEM.



**Figure 2. Kazakhstan Arbitration Enforcement Mechanism (KAEM):
A Four-Pillar Framework for Strengthening Arbitration Enforcement**

Study results reveal that Kazakhstan fails to execute international arbitral awards owing to procedural inefficiencies, court participation issues, and enforcement delays. The comparative Table 1³⁹ shows significant discrepancies in arbitration enforcement between Kazakhstan, France, Switzerland, the UK, Singapore, and Hong Kong. The results highlight Kazakhstan's inadequate arbitration framework, including judicial involvement, enforcement deadlines, international arbitral award recognition, and arbitration process quality.

39 Authors extracted information from the AIFC Judgments, ICC Arbitration Database, World Bank Doing Business Reports, and UNCITRAL Model Law. See, 'AIFC Judgements' (Astana International Financial Centre - AIFC Court, 2025) <<https://court.aifc.kz/judgments/>> accessed 2 April 2025; 'Publication of ICC Arbitral Awards with JUS MUNDI' (International Chamber of Commerce, 2025) <<https://iccwbo.org/dispute-resolution/resources/publication-of-icc-arbitral-awards-jus-mundi-not-icc-publication/>> accessed 2 April 2025; 'Data Bank Doing Business' (World Bank Group, 2025) <<https://databank.worldbank.org/source/doing-business>> accessed 2 April 2025; UNCITRAL Model Law (n 22).

Table 1. Comparative analysis of Arbitration Frameworks and Enforcement in Selected Countries

Criteria	France	Switzerland	UK	Singapore	Hong Kong	Kazakhstan (Current System)
Judicial Intervention	Minimal	Minimal	Minimal	Minimal	Limited	High (some delays and inconsistencies)
Enforcement Speed	Fast	Fast	Fast	Fast	Fast	Slow (some legal and bureaucratic hurdles)
Recognition of Foreign Awards	Strong	Strong	Strong	Strong	Strong	Inconsistent
Arbitration Framework	Pro-arbitration	Pro-arbitration	Pro-arbitration	Pro-arbitration	Pro-arbitration	Mixed (conflicting legal provisions)

Table 1 indicates that arbitration procedures in most of the analysed jurisdictions (France, Switzerland, the United Kingdom, Singapore, and Hong Kong) demonstrate pro-arbitration legislation, minimal judicial intervention, high enforcement speed, and stable recognition of foreign arbitration awards. Kazakhstan, however, demonstrates a significant judicial intervention level, slow, bureaucratized enforcement, inconsistent recognition of foreign arbitration awards and conflicting legal provisions.

While arbitration awards in Kazakhstan take longer to be executed than in other countries,⁴⁰ the KAEM seeks to establish a pro-arbitration legal framework to align Kazakhstan's arbitration rules with global norms, expedite enforcement, and increase acceptance of foreign court arbitration decisions. The mechanism uses Swiss judicial autonomy principles, French and British streamlined enforcement tools, and Singaporean procedural efficiencies to create Kazakhstan as a trustworthy arbitration centre. Table 2⁴¹ compares enforcement delays and court participation in the UK, France, Kazakhstan, Switzerland, and Singapore.

40 Anselmo Reyes and Till Haechler, 'Anti-Corruption Laws and Investment Treaty Arbitration: An Asian Perspective' in Nobumichi Teramura, Luke Nottage and Bruno Jetin (eds), *Corruption and Illegality in Asian Investment Arbitration. Asia in Transition* (Asia in Transition, Springer 2024) 89, doi:10.1007/978-981-99-9303-1_4.

41 Authors extracted information from the AIFC Court Reports, ICC Arbitration Database, World Bank Doing Business Reports 2023, and UNCITRAL Model Law (n 39).

**Table 2. Comparative Analysis of Enforcement Delays,
Judicial Intervention,
and Investor Confidence in Selected Jurisdictions**

Country	Average Time for Enforcement	Judicial Intervention Frequency	Investor Confidence Level
Switzerland	3-6 months	Low	High
Singapore	4-8 months	Low	High
UK	6-9 months	Low	High
Kazakhstan (Current System)	18-24 months	High	Medium-Low

Table 2 shows that judicial intervention and procedural complexities hinder Kazakhstan’s enforcement operations, making a stark contrast with Singapore and Switzerland. Long timeframes and legal hurdles in arbitration enforcement harm international investors’ trust in Kazakhstan’s arbitration jurisdiction.

Table 3⁴² compares the duration from arbitration claim submission to enforcement across different jurisdictions, including the forecast results under the KAEM framework. The KAEM model will address the revealed inefficiencies in Kazakhstan by streamlining processes, eliminating judicial intervention in enforcement activities, and utilising global best practices.

Table 3 demonstrates that introducing a new mechanism could potentially reduce the arbitration enforcement timeline in Kazakhstan, making the timeframe comparable to that of Singapore or Switzerland. Due to shortening the time for appeals consideration and optimising the enforcement procedure, the arbitration system of Kazakhstan is expected to become more operational and competitive in the international context.

42 Authors extracted the information from the different reports of ICC, SIAC, LCIA, and AIFC. See, ‘ICC Dispute Resolution’ (*International Chamber of Commerce*, 2025) <<https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/arbitrators/>> accessed 20 May 2025; ‘SIAC Administered Arbitration’ (*Singapore International Arbitration Centre*, 2025) <<http://siac.org.sg/administered-arbitration>> accessed 20 May 2025; ‘LCIA Arbitration’ (*London Court of International Arbitration*, 2025) <https://www.lcia.org/Dispute_Resolution_Services/LCIA_Arbitration.aspx> accessed 20 May 2025; ‘AIFC Judgements’ (n 39).

Table 3. Comparative analysis of arbitration enforcement timeframes between the selected jurisdictions

Country	Filing to judgment	Appeal process	Final enforcement	Total duration
Switzerland	2-4 months	1-2 months	1-3 months	4-9 months
Singapore	3-5 months	2-3 months	2-3 months	7-11 months
UK	4-6 months	3-4 months	2-4 months	9-14 months
France	5-7 months	3-5 months	3-5 months	11-17 months
Kazakhstan (Current)	6-9 months	6-12 months	6-9 months	18-30 months
Kazakhstan (Proposed KAEM)	3-5 months	2-4 months	1-3 months	6-12 months

Table 4⁴³ shows the judicial interventions in arbitration enforcement among the selected arbitration centres.

Table 4. Judicial intervention in arbitration enforcement

Country	Cases with No Intervention (%)	Cases with Partial Intervention (%)	Cases Overturned (%)
Switzerland	92%	6%	2%
Singapore	89%	8%	3%
UK	87%	9%	4%
France	85%	10%	5%
Kazakhstan (Current)	55%	30%	15%
Kazakhstan (KAEM)	85%	10%	5%

Legal uncertainty for foreign investors is exacerbated by the high levels of judicial engagement in the present Kazakhstan system (30% +15% = 45% of cases involve some

43 Authors extracted the information from AIFC Court Annual Reports, SIAC Annual Review, and LCIA Case Statistics. See, AIFC Annual Reports' (*Astana International Financial Centre - AIFC Court*, 2025) <<https://court.aifc.kz/en/annual-report>> accessed 20 May 2025; 'SIAC Annual Reports' (*Singapore International Arbitration Centre*, 2025) <<https://siac.org.sg/annual-reports>> accessed 20 May 2025; 'LCIA Reports' (*London Court of International Arbitration*, 2025) <<https://www.lcia.org/lcia/reports.aspx>> accessed 20 May 2025.

court action). By harmonising arbitration enforcement with international leaders like Switzerland and Singapore, KAEM would minimise judicial intervention and unite Kazakhstan with its global counterparts. Table 5⁴⁴ shows the possible pre- and post- KAEM implementation projection.

**Table 5. Arbitration case outcomes in Kazakhstan
(before and after KAEM implementation projection)**

Case Type	Total cases (Before KAEM)	Cases enforced (%)	Cases delayed (%)	Cases rejected (%)	Projected enforcement rate (KAEM)
Commercial disputes	500	55%	30%	15%	85%
Investor-state disputes	300	50%	35%	15%	82%
Contractual disputes	400	58%	32%	10%	87%
Cross-border arbitration	350	52%	33%	15%	84%

Table A2 in Appendix 2 systematically catalogues the legislative and regulatory acts of the Republic of Kazakhstan that influenced the mechanism for recognising and enforcing foreign arbitral awards in 2024. The legal significance of these acts lies in strengthening judicial scrutiny of non-arbitrability and public policy compliance in award enforcement, establishing the direct primacy of the international convention over national procedural law, clarifying the scope of grounds for annulment, and broadening the procedural framework of the AIFC.

Tables A3–A5 of Appendix 2 analyse and synthesise judicial practices from 2024 in Kazakhstan, France, Germany, as well as in Singapore and Hong Kong, identifying opportunities for improvement in Kazakhstan’s legislation. Table A6 of Appendix 2 presents the conclusions for enhancing the Kazakh mechanism.

44 Authors extracted from the ICC Case Information, HKIAC and French arbitration law case studies. See, ‘ICC Case Information’ (*International Chamber of Commerce*, 2025) <<https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/arbitrators/>> accessed 20 May 2025; *Hong Kong International Arbitration Centre (HKIAC)* <<https://www.hkiac.org>> accessed 20 May 2025; Alice Clavière-Schiele and others, ‘French Case Law on Arbitration: In-Depth Review’ [2019] *Arbitration Journal* <<https://journal.arbitration.ru/ru/reviews/french-case-law-on-arbitration-in-depth-review/>> accessed 2 April 2025.

According to the analysis of judicial practices from 2019 to 2024, as outlined in the 2024 reviews of the Supreme Court of the Republic of Kazakhstan,⁴⁵ approximately 40% of rejections to recognise foreign arbitration awards were based on public order violations. This figure is significantly higher than that observed in the legal practices of EU countries, the US and Singapore, where the aforementioned value appears to be significantly smaller.⁴⁶

Furthermore, courts of the Republic of Kazakhstan often refuse to recognise the awards on formal grounds not envisaged by the 1958 Convention. For example, judicial practice demonstrates some cases of rejection due to a lack of an apostille, even though the award in question met the Convention's requirements, which do not mandate apostilling the documents.⁴⁷

Another challenge is the delays in processing recognition applications. While Article 502 of the Civil Procedure Code of the Republic of Kazakhstan does not establish a time limit for consideration, there have been instances where the arbitration process has lasted 4 to 6 months, contradicting the principle of international justice efficiency.

In contrast, pro-arbitration laws in other countries ensure enforceable, predictable, and timely rulings. Kazakhstan's municipal courts' excessive involvement in arbitration, particularly international arbitral awards, raises neutrality and efficiency concerns.⁴⁸

To improve the legal enforcement practice, the following measures are proposed:

- Regular generalisation of judicial practice by the Supreme Court of Kazakhstan with a focus on positive precedents and successful applications of international norms. This initiative will help unify the approaches of lower-level courts.
- Development and dissemination of methodical recommendations for judges on applying the New-York 1958 Convention, Law "On Arbitration" and Article 501 of the Civil Procedure Code of the Republic of Kazakhstan. These recommendations can be based on the UNCITRAL principles and international court awards.
- Mandatory professional development for judges handling cases on recognition of foreign awards and transboundary justice matters. This is especially important in modern conditions of digitalisation and the increasing number of arbitrations that involve digital agreements.
- Establishment of special judicial structures within economic courts, tasked with handling petitions regarding the recognition of foreign awards. This approach—successfully utilised in Singapore and some countries of the EU—ensures that transnational cases are addressed by qualified and specialised judges.

45 'Case Law Reviews' (n 10).

46 UNCITRAL Secretariat Guide (n 11).

47 LS Tleulina, 'Recognition and Enforcement of Decisions of Commercial Arbitrations and Foreign Courts in Kazakhstan' (2015) 6 Legal Insight 33.

48 Weixia Gu and Jacky Tam, 'The Global Rise of International Commercial Courts: Typology and Power Dynamics' (2021) 22(2) Chicago Journal of International Law 443.

- Creation of a public database of Kazakhstani court decisions on the recognition and enforcement of foreign judicial decisions and arbitration awards. This could be implemented as a yearly updating report (similar to Supreme Court reviews), including general statistics, analysis of rejection justifications, and examples of successful recognition.

Summarising, improvements in legal enforcement practices require not just legislative changes, but also a systemic approach to judicial training, practice analysis and the harmonised application of international agreements.

Tables A7-A8 (see Appendix 3) systematise the legal mechanisms and functioning of the proposed KAEM and legal enforcement practice improvement directions, as well as the ways of implementing it into Kazakhstan's law. The proposed mechanism is a modular extension of the existing procedural process, not a replacement for it.

International corporations and investors are often deterred from selecting Kazakhstan as their preferred arbitration seat due to lengthy and complex court proceedings, unclear legislative provisions and bureaucratic red tape. One key finding is the disparity in enforcement timelines: in Kazakhstan, it may take 30 months from complaint to enforcement, while in Switzerland and Singapore, arbitration issues are often resolved in less than a year. Lengthy appeals and enforcement delays add uncertainty to conflict resolution. Delays in corporate disputes involving large sums or time-sensitive agreements can harm the economy.

Kazakhstani companies may lose out to countries with better arbitration enforcement systems. The KAEM approach is expected to strengthen Kazakhstan's arbitration enforcement framework, enabling the country to attract more investors and establish itself as a regional dispute resolution hub.

To resolve inconsistencies in the adoption and implementation of foreign arbitral awards, Kazakhstan's legislation should be better harmonised with international accords, notably the New York Convention.⁴⁹ Although Kazakhstan is a signatory, its implementation of the Convention remains inconsistent. Legal ambiguity and the uncommon refusal of home courts to enforce foreign awards hinder the purpose of international arbitration. Adopting a pro-arbitration judicial policy, as seen in Switzerland, Singapore, and the UK, could help bridge this gap. Establishing arbitration tribunals and judicial training programs may lessen the likelihood of international judges reaching divergent decisions.⁵⁰

49 Mosleh A Tarawneh and Tariq K Alhasan, 'Between Commitment and Reality: A Critical Examination of Jordan's Adherence to the New York Convention 1958' (2024) 41(4) Conflict Resolution Quarterly 491, doi:10.1002/crq.21419.

50 Greg Lourie, 'The Case for Judicial Capacity Building through International Arbitration' in Marc Bungenberg and others (eds), *Alternative Dispute Resolution in the Western Balkans: Trends and Challenges* (European Union and its Neighbours in a Globalized World, Springer 2025) 37, doi:10.1007/978-3-031-76345-8_3.

5 CONCLUSIONS

5.1. Prospects for International Cooperation and Adoption of Foreign Practices

As a result of the conducted comparative legal research, the stated goals and objectives were successfully achieved. First and foremost, the analysis of law enforcement practice confirmed the existence of contradictions between the norms of the New York Convention and the CPC RK regarding the enforcement of arbitral awards in state courts. It also highlighted the distinctive features of procedures applied in the AIFC Court and the IAC.

Furthermore, a comparison of European and Asian jurisdictions revealed that countries such as Switzerland, France, Germany, Singapore, and Hong Kong employ limited review procedures for awards and have regulated application procedures, thereby enhancing procedural predictability. The legal comparison also identified key institutional and procedural barriers within Kazakhstan's enforcement system, including fragmented rules, the absence of digital registers, and extended judicial discretion in assessing "public policy" considerations.

Based on these findings, the development of recommendations justified the creation of the KAEM, which advocates for unifying procedural steps, introducing electronic tracking of applications, and establishing clear criteria for limited review in line with international standards.

Summarising the conducted research, the authors propose the following prospects for international cooperation and the adoption of foreign practices:

- Accession to the 2019 Hague Convention: Kazakhstan should consider joining the 2019 Hague Convention, a modern, universal mechanism supported by numerous countries, including EU member states, the US, and Uruguay. Joining this Convention could significantly facilitate cross-border cooperation and enhance the predictability of law enforcement practices.
- Replacing outdated bilateral agreements: The 2019 Hague Convention establishes a new standard that could potentially replace existing bilateral agreements. Additionally, given Kazakhstan's increasing economic engagement with China, Turkey, the UAE, and the UK, it is advisable to intensify bilateral negotiations to establish legal assistance agreements that include provisions for recognising court decisions. Experience shows that bilateral agreements with clear reciprocity clauses help avoid legal uncertainties, which continue to pose challenges under Article 501 of CPC RK.

- Learning from the EU's Brussels I Recast Regulation: The Brussels I Recast Regulation (Regulation No. 1215/2012), in force since 2015,⁵¹ allows for the automatic recognition and enforcement of court decisions across the EU without any additional procedures. This regulation has significantly reduced the time required for recognition and the number of refusals.
- Adopting international model laws: Kazakhstan should more actively adopt and adapt model instruments of international law, such as the 2006 UNCITRAL Model Law on International Commercial Arbitration. This law offers more flexible procedures for recognising electronic agreements and arbitral awards, which is increasingly important in the digital age.
- Advancing digital justice and court interoperability: To strengthen digital justice, Kazakhstan could introduce platforms for exchanging information between courts in different countries, similar to those successfully implemented in Singapore and Estonia. Such systems enhance transparency and help mitigate risks related to improper party notification and document falsification.

5.2. Theoretical Contributions

This study advances international arbitration theory, particularly legal jurisprudence, by proposing a new legal framework to increase arbitration enforcement in Kazakhstan. It proposes a dynamic, multi-layered enforcement framework tailored to Kazakhstan, emphasising the integration of domestic and international legal principles, such as sovereignty and recognition of foreign awards. The framework advocates updating Kazakhstan's Arbitration Law to reduce judicial involvement, align with global best practices, and enhance enforcement transparency and predictability, especially for emerging nations.

Challenging the traditional notion of delocalisation, the study emphasises the importance of national legal systems in arbitration enforcement, recommending a clearer separation of powers between courts and arbitrators to limit judicial discretion. Its comprehensive approach offers valuable insights into strengthening arbitration frameworks, with implications for Kazakhstan and similar countries seeking effective enforcement mechanisms within international legal obligations, such as the New York Convention.

51 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' (recast) [2012] OJ L 351/1.

5.3. Practical Implications

This study holds relevance for politicians, lawyers, and foreign investors. Policymakers must review and amend the Law on Arbitration and the CPC RK (Articles 8 and 255) to solve current arbitration procedure restrictions. Research suggests that the KAEM framework could help facilitate these law changes by lowering the bar for judicial intervention, extending enforcement deadlines, and aligning the system with international arbitration standards, specifically the 1958 New York Convention.

One of the most significant areas for change is the enforcement of arbitration. Under the CPC, courts may intervene in arbitration through claims, award annulment, and enforcement proceedings. However, the existing framework is unclear, especially regarding arbitration rule enforcement and nullification. These issues must be addressed to enhance Kazakhstan's arbitration system and reassure foreign investors that it can effectively resolve disputes.

Legislative reforms should also allow the AIFC to operate more autonomously within Kazakhstan's broader legal system, ensuring consistency and predictability. Furthermore, Kazakhstan's legal framework must be modernised to recognise and enforce foreign arbitration awards.

Addressing these legal difficulties can enhance Kazakhstan's arbitration system and attract more foreign investors and corporations. Arbitral institutions and legislative bodies should apply the study's findings to streamline proceedings, promote predictability, and ensure compliance with international legal norms.

5.4. Limitations

Despite the comprehensive nature of the approach, the study has several significant limitations.

Due to the confidential nature of many arbitration cases and limited access to unpublished court decisions and hearing transcripts, only a selective sample of proceedings with publicly available judgment texts or those provided by arbitral institutions was analysed. This limitation may have led to an underestimation of certain procedural nuances and an incomplete picture of actual enforcement practices.

Additionally, the analysis primarily focused on key institutional and procedural barriers—such as limited judicial review, filing deadlines, and enforcement conflicts—without addressing related administrative procedures (e.g., enforcement proceedings, securing evidence in the recognition of foreign awards). Financial aspects, including arbitration costs and funding, were also excluded, though they may significantly impact the efficiency and speed of enforcement.

Given the large volume of arbitration cases and the diversity of disputes (commercial, investment, cross-border), the research focused on the most representative and significant precedents. While this approach enabled in-depth analysis, it may have excluded atypical cases that could still offer valuable insights for improving enforcement.

The study covers the period from 2014 to 2024 but does not account for legislative changes or evolving court practices after the data collection phase, which may substantially affect the identified trends.

The Kazakhstan Arbitration Enforcement Mechanism remains a conceptual framework that has not yet been tested in practice; pilot projects and comprehensive institutional testing are necessary to evaluate its effectiveness and sustainability across various scenarios before the proposed system can be fully implemented.

5.5. Recommendations for Future Studies

Future arbitration enforcement studies in Kazakhstan should focus on the interpretation and implementation of arbitration law by courts, as well as the enforcement outcomes. Kazakhstan's legal stance may be compared to global norms by examining how other nations address the enforcement of annulled awards.

Kazakhstan's Arbitration Law (2016) and the CPC also warrant a deeper study of domestic courts' relationships with arbitration institutions. Future studies should examine whether domestic courts follow arbitration-friendly rules or whether judicial involvement continues to impair arbitral outcomes.

Exploration of "delocalisation" as a legal theory in the Kazakhstani context would also be valuable. This is important because countries have different approaches to enforcement, including territorial and global approaches. Understanding how Kazakhstan fits within this spectrum can enhance the country's legal coherence and international standing.

Public policy exceptions remain a contentious issue. Courts in Kazakhstan may use public policy as a reason to deny recognition of foreign awards. A comparative analysis of how various jurisdictions interpret public policy could provide valuable insights into Kazakhstan's arbitration enforcement system.

Ultimately, future studies may investigate how consistent and clear arbitration decisions impact investor trust. Kazakh arbitration case law may be contradictory because *stare decisis* is not strictly implemented. Research aimed at fostering legal predictability by modifying laws or creating new legal precedents could strengthen the country's arbitration enforcement.

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APPENDIX 1

Table A1. Legal Interpretation of Article V of the 1958 New York Convention in the Context of Enforcement of Foreign Arbitral Awards in Kazakhstan, Europe and Asia for 2023-2024

Article V of the 1958 New York Convention	Established doctrinal positions and key case law	Kazakhstan: current norms and judicial practice 2023-2024	Decisions demonstrating pro-arbitrage trend mechanisms (Europe)	Decisions demonstrating pro-arbitrage trend mechanisms (Asia)	Targeted adjustments that should be incorporated into the KAEM
V(1)(a) Invalidity/incapacity of arbitration agreement	Validity is assessed on the dual test of <i>lex arbitri</i> or <i>lex causae</i> ; the burden of proof is on the defendant ⁵²	CPC RK Article 501  Law on Arbitration; NP SC RK No. 3/2023 requires to check only obvious defects in the agreement ⁵³	BGH, 9 March 2023 (case concerning the “group of companies”) – exequatur refused because the tribunal unlawfully extended the clause to third parties ⁵⁴	SGCA Anupam Mittal (2023) – affirmed “composite approach” to arbitrability; agreement is valid if parties knowingly accepted forum ⁵⁵	To clarify in the SC the criteria of “manifest invalidity” and exclude the broad interpretation of “third parties” according to the BGH model

52 UNCITRAL Secretariat Guide (n 11) art V(1)(a).
53 Civil Procedural Code of the Republic of Kazakhstan No 377-V LRK (n 13) art 501; Law of the Republic of Kazakhstan No 488-V LRK (n 28); Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No 3 of 2 November 2023 ‘On Certain Issues of Application of Arbitration Legislation by Courts’ <<https://adilet.zan.kz/rus/docs/P230000003S>> accessed 20 May 2025.
54 Markus Altenkirch and Maria Barros Mota, ‘German Federal Court of Justice on the Extension of Arbitration Agreements to Non-Signatories (Piercing of the Corporate Veil)’ (*Global Arbitration News: Blog by Baker McKenzie*, 30 June 2023) <<https://www.globalarbitrationnews.com/2023/06/30/germany-bgh-refused-recognition-and-enforcement-of-award-because-the-arbitral-tribunal-exceeded-its-personal-jurisdiction-by-extending-an-arbitration-agreement-to-a-de-facto-group-of-companies/>> accessed 20 May 2025.
55 Akash Karmarkar, ‘Anupam Mittal v Westbridge: Potential Paradox of the Singapore Court of Appeal’s ‘Composite Approach’ on the Law Applicable to Arbitrability’ (*Kluwer Arbitration Blog*, 26 May 2023) <<https://arbitrationblog.kluwerarbitration.com/2023/05/26/anupam-mittal-v-westbridge-potential-paradox-of-the-singapore-court-of-appeals-composite-approach-on-the-law-applicable-to-arbitrability/>> accessed 20 May 2025.

V(1)(b) Violation of the right to be heard	The court checks whether there was a “meaningful opportunity” – formal flaws ≠ refusal (Parsons; Karaha Bodas) ⁵⁶	No due process defect cases recorded in 2024; Supreme Court clarifies: missing a session ≠ automatic refusal if notification is proven ⁵⁷	Cass., 6 November 2024, Libye – Claimed “dual form” did not violate procedural rights ⁵⁸	SGHC CZD v CZE (2023) – defendant’s participation offsets procedural flaws ⁵⁹	To establish the presumption of “real possibility” in lieu of formal notification criteria; refer to Cass. 2024 as a pro-arbitration example
V(1)(c) Excess of competence (ultra petita)	Narrow reading: only if the award clearly exceeds the clause ⁶⁰	Kazakh courts in the SC review (2023) recognised 2 cases of refusal (extra elements of the decision) ⁶¹	BGH 2023 – refusal, because the tribunal considered persons who did not sign the clause ⁶²	HK BB v KO 2023 – refusal in set-aside, but the court upheld the award, indicating <i>de minimis excess</i> ⁶³	To introduce a procedural option to remit awards to arbitrators (under the HK model) instead of an outright refusal

56 UNCITRAL Secretariat Guide (n 11) art V(1)(b); Lianjun Li and others, ‘Hong Kong Court Orders Remission of Arbitral Award on Public Policy Grounds’ (*Reed Smith*, 30 January 2024) <<https://www.reedsmith.com/en/perspectives/2024/01/hong-kong-court-orders-remission-of-arbitral-award-on-public-policy-grounds?/>> accessed 20 May 2025.

57 *CIS Legislation* <<https://cis-legislation.com>> accessed 20 May 2025.

58 ‘The French Supreme Court (Cour de cassation) Rules on the Liquidator’s Intervention Not Granted Exequatur in France’ (*Teynier Pic*, 3 January 2025) <<https://www.teynier.fr/en/the-french-supreme-court-cour-de-cassation-rules-on-the-liquidators-intervention-not-granted-exequatur-in-france/>> accessed 20 May 2025.

59 Yu-Jin Tay and Charles KS Tay, ‘The High Court of Singapore Gives Additional Insight in Relation to Enforcement of Foreign Arbitral Awards in Singapore’ (*Mayer Brown*, 12 April 2023) <<https://www.mayerbrown.com/en/insights/publications/2023/04/the-high-court-of-singapore-gives-additional-insight-in-relation-to-enforcement-of-foreign-arbitral-awards-in-singapore?/>> accessed 20 May 2025.

60 UNCITRAL Secretariat Guide (n 11) art V(1)(c).

61 Maxim Telemtayev and Assel Konyskerey, ‘Kazakhstan Law News Digest for April – June 2023’ (*White & Case*, 4 July 2023) <<https://www.whitecase.com/insight-alert/kazakhstan-law-news-digest-april-june-2023>> accessed 20 May 2025.

62 Altenkirch and Mota (n 54).

63 Li and others (n 56).

V(1)(d) Inconsistency in the procedure/co mposition of the tribunal	Priority of autonomy of will; national procedure – only <i>subsidiaria</i> ⁶⁴	No cases on composition of tribunal; RK Law Chapter IV allows for challenge in case of conflict of interests	Cass. 2024 recognised <i>ad hoc</i> procedure although ICC rules were partially violated ⁶⁵	SGHC DDI v DDJ 2024 - confirmed finality of appointment of arbitrator, rejecting set- aside ⁶⁶	To formally clarify that insignificant departures from the rules ≠ grounds for refusal
V(1)(e) Cancellation of set aside or annulled arbitral awards at the seat of arbitration	Cancellation = discretionary ground; 'limited deference' is possible (Karahah- Bodas) ⁶⁷	Kazakh courts traditionally follow the principle of 'automatic' refusal if the award is cancelled	Cass. Paris 2024 (Siba Plast) - executed award despite partial cancellation in Libya ⁶⁸	SGCA Deutsche Telekom v India 2023 - upheld execution although annulment was pending in The Hague ⁶⁹	To clarify in the Supreme Court that cancellation ≠ automatic barrier; the court has the right to consider the circumstances (forum shopping, discrimination)
V(2)(a) Non- arbitrability of the subject matter	Determined by <i>lex fori</i> ; trend – narrowing of non- arbitrable categories ⁷⁰	Amendments to the Law (19.06.2024) introduced a ban on disputes between banks and MFOs ⁷¹	BGH 2024 found sanctions disputes arbitrable (no automatic ban) ⁷²	SGCA Westbridge 2023 – developed a "composite test" for arbitrability ⁷³	Conduct an industry analysis: is it advisable to maintain a complete ban on bank disputes?; consider the "conditional arbitrability" model

64 UNCITRAL Secretariat Guide (n 11) art V.
65 The French Supreme Court (n 58).
66 *DDI v DDJ and another* [2024] SGHC 68.
67 Li and others (n 56).
68 *Siba Plast SARL v Libya* RG n° 21/11112 [2024] Paris Court of Appeal.
69 *Republic of India v Deutsche Telekom AG* [2023] SGCA(I) 10.
70 UNCITRAL Secretariat Guide (n 11) art V(2)(a).
71 'Baker McKenzie International Arbitration Yearbook 2024-2025 – Kazakhstan' (*Global Arbitration News: A Blog by Baker McKenzie*, 1 January 2025) <<https://www.globalarbitrationnews.com/2025/01/01/baker-mckenzie-international-arbitration-yearbook-2024-2025-kazakhstan/>> accessed 20 May 2025.
72 Antonios Politis, 'No Signature – No Problem? German Court Addresses Arbitral Award's Signature Requirement Under UNCITRAL Model Law' (*Kluwer Arbitration Blog*, 9 December 2024) <<https://arbitrationblog.kluwerarbitration.com/2024/12/09/no-signature-no-problem-german-court-addresses-arbitral-awards-signature-requirement-under-uncitral-model-law/>> accessed 20 May 2025.
73 Karmarkar (n 55).

APPENDIX 2. Legal analysis of primary sources for 2024

Table A2. Regulatory framework of the Republic of Kazakhstan

Legal act / source	Key changes in 2024	Legal significance for the enforcement of foreign arbitral awards
Law on Arbitration (No. 488-V)	— Law No. 97-VIII (19 June 2024) prohibited arbitration institutions created by MFOs/debt collection agencies from considering disputes between banks and microcreditors. — Non-arbitrable categories were expanded (disputes involving individual debtor were included)⁷⁴	When filing for enforcement, the court checks whether the subject falls under the new prohibitions. An arbitration agreement concluded after 19 June 2024 will be null and void if the dispute relates to the specified sectors.
Civil Procedure Code of the Republic of Kazakhstan, Chapter 46 (Articles 501–504)	No changes, but the Supreme Court clarified the interpretation (see paragraph 4) ⁷⁵	Courts are again instructed to apply the New York Convention directly, the Civil Procedure Code - subsidiary.
Regulatory Resolution of the Supreme Court dated 2 November 2023 No. 3	Provides mandatory clarifications to courts on public order, time limits and evidence in recognition/enforcement ⁷⁶	In 2024, courts referred to it as a guide to assessing the “manifest breach” of public policy.
Resolution of the Constitutional Court dated 13 September 2024 No. 51-NP	The wording of paragraph 3 of Article 52 (grounds for cancellation) is recognised as constitutional ⁷⁷	The narrow, exhaustive nature of the grounds for cancellation/refusal of recognition is confirmed.
AIFC Regulations (Arbitration Regulations 2017; IAC Rules 2018)	No changes; AIFC Court confirmed their priority over the Arbitration Law ⁷⁸	Allows for the recognition of awards <i>ex parte</i> , without prior notice to the debtor.

⁷⁴ Baker McKenzie (n 71).

⁷⁵ Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No 3 (n 53).

⁷⁶ *ibid.*

⁷⁷ Law of the Republic of Kazakhstan No 488-V LRK (n 28).

⁷⁸ *Aqua Factoria LLP v AOM SDF I BV Private Limited Company* No AIFC-C/CFI/2024/0001 (AIFC Court, 22 May 2024) <<https://court.aifc.kz/judgments/case-no-1-of-2024/>> accessed 20 May 2025.

Table A3. Judicial practice in Kazakhstan for 2024

Case	The essence of the dispute / the position of the court	Precedent Significance
AIFC Court, Case No 1/2024, Aqua Factoria LLP v AOM SDF I B.V. (22 May 2024) ⁷⁹	A claim to cancel the IAC award. The defendant referred to the lack of consent of the state body (Article 8(10) of the Law). The court indicated that only the AIFC regulations apply to the IAC; consent is not required; public order is not violated.	Establishes the autonomy of AIFC procedures: when executing such awards, government agencies cannot refer to internal public order.
Kazakhstani state courts (based on Baker McKenzie 2024): enforcement of an award with compound interest against a state agency ⁸⁰	Refused: the amount in the writ of execution must be expressed in an easily calculable fixed amount; the court of execution cannot calculate the interest itself.	Practical conclusion: when working with government agencies, arbitrators must indicate a specific amount of debt or the calculation procedure, otherwise there is a risk of refusal.
Examples of refusal to recognize Russian judicial acts (Signum Law case) ⁸¹	The court refused, referring to the absence of an international treaty + reciprocity.	Confirms that reciprocity is an independent basis of Part 1 of Article 501 of the Civil Procedure Code; in 2024, courts actively require evidence of it.

79 ibid.

80 Baker McKenzie (n 71).

81 Sergazy Tuleu, 'Recognition and Enforcement of Judicial Acts of Russian State Courts on the Territory of Kazakhstan' (*Signum Law Firm*, 27 November 2024) <<https://signumlaw.com/posts/priznanie-i-ispolnenie-sudebnyh-aktov-rossiyskih-gosudarstvennyh-sudov-na-territorii-kazahstana>> accessed 20 May 2025.

Table A4. Judicial practice of European countries for 2024

Jurisdiction	The essence of the dispute / the position of the court	Opportunities for improvement in Kazakhstan legislation
France	The Paris Court of Appeal obliged to attach a translation already when filing the application; otherwise, there is a risk of rejection. ⁸² Cassation (6 November 2024) supported the effect utile of the arbitration clause, rejected the argument on "double consent". ⁸³	1) Careful control of procedural safeguards, but refusal is rare. 2) Narrow interpretation of public policy (only clear violations) ⁸⁴
Germany (BGH 11 July 2024)	The presumption of enforceability has been strengthened; violation of the sanction regime is not an automatic basis for refusal.	Sanctions/sovereignty arguments do not work without direct violation of order public.

Table A5. Judicial practice of Asian countries for 2024

Jurisdiction	Tendency in 2024	Opportunities for improvement in Kazakhstan legislation
Singapore	High Court (March 2024) upheld DIAC interim award under DIFC-LCIA; key factor was the fact of voluntary participation of the defendant. ⁸⁵ Court of Appeal clarified: arbitrators are not obliged to "guarantee" global enforceability. ⁸⁶	Confirms pro-arbitration approach: courts look at actual conduct of parties.
Hong Kong	High Court (9 February 2024) refused enforcement under public policy due to insufficient reasons for the award, but returned it to the tribunal for correction of violations ⁸⁷	Court seeks to preserve award; gives tribunal chance to correct deficiencies instead of outright refusal.

82 William Brillat-Capello, 'French Translations Needed to Enforce Arbitral Awards in France' (*Pinsent Masons*, 15 May 2025) <<https://www.pinsentmasons.com/out-law/analysis/french-translations-enforce-arbitral-awards-france>> accessed 20 May 2025.

83 Baker McKenzie (n 71).

84 Marie-Laure Cartier and Alexandre Meyniel, 'Enforcement of Judgments 2024, France: Trends and Developments' (*Chambers and Partners*, 19 July 2024) <<https://practiceguides.chambers.com/practice-guides/enforcement-of-judgments-2024/france/trends-and-developments>> accessed 20 May 2025.

85 'International Arbitration in the Middle East: 2024 in Review and What to Expect in 2025' (*Covington*, 21 January 2025) <<https://www.cov.com/en/news-and-insights/insights/2025/01/international-arbitration-in-the-middle-east-2024-in-review-and-what-to-expect-in-2025>> accessed 20 May 2025.

86 Koh Swee Yen and others, 'Enforcement of Judgments 2024, Singapore: Trends and Developments' (*Chambers and Partners*, 19 July 2024) <<https://practiceguides.chambers.com/practice-guides/enforcement-of-judgments-2024/singapore/trends-and-developments/O17884>> accessed 20 May 2025.

87 Li and others (n 56).

Table A6. Comparative conclusions

Kazakhstan 2024	Europe 2024	Asia 2024	Conclusion for improving the mechanism
Strict formal requirements for the amount of debt; new non-arbitrability (financial sector).	Narrow interpretation of public policy; translation requirements (France); protection of the effectiveness of the clause.	Pro-arbitrage position (Singapore), flexible defect resolution (Hong Kong).	1. Clarify in the Law: allow the execution of awards with interest according to the formula, as in France or Singapore. 2. In the Code of Civil Procedure, secure the right of the court to remit the award to arbitrators for correction, following the example of the Hong Kong. 3. Introduce an explanation of the Supreme Court (or an amendment) on the criteria for reciprocity—use public lists. 4. Continue digitalization: extend the AIFC portal to the consideration of ex parte applications in state courts.

APPENDIX 3

**Table A7. Kazakhstan Arbitration Enforcement Mechanism (KAEM):
 a unified scheme of work linked to existing norms
 and step-by-step legal implementation**

No.	KAEM stage	What is already enshrined in the current law of the Republic of Kazakhstan	What exactly does KAEM add/clarify	Necessary regulatory changes (ways of implementing)	Practical effect
1	Electronic appeal	The E-Sot portal and Article 150 of the Code of Civil Procedure allow filing claims digitally. The Law on Electronic Document and Electronic Digital Signature recognizes electronic signatures.	Specialised e-Justice-KAEM module; automatic validation of arbitral award, translations and NYC checklist; chamber (summary) proceedings instead of general claims.	New Article 501-1 of the Code of Civil Procedure "Filing a petition for recognition and enforcement of an arbitral award"; Article 66-1 of the Law "On Arbitration" - a direct reference to the electronic format.	Reduction of the initial inspection to 1 day; elimination of returns due to formal defects.
2	Accelerated notification	Electronic notification is provided for by the Code of Civil Procedure, but the period starts from paper delivery.	Presumption of proper notification via personal account + e-mail; 14 days for objections are recorded automatically.	Article 501-2 of the Code of Civil Procedure "Electronic notification to KAEM"; by-laws of the Ministry of Justice on the e-service algorithm.	Eliminates disputes about "improper delivery", disciplines the debtor.

3	Specialised proceedings	Competence of general courts (Chapter 46 of the Code of Civil Procedure). AIFC Court already considers intra-center disputes.	Collegium KAEM at the Astana court (3 judges with MA certification); online hearing — only six grounds of Article V NYC, without revision on the merits.	New Chapter 46-1 of the Code of Civil Procedure "Special procedure for the enforcement of foreign arbitral awards"; amendment to the Law "On the Judicial System" on the creation of a panel.	Creates uniformity of practice; reduces the burden on district courts; increases predictability.
4	Remit mechanism	The Code of Civil Procedure provides only for refusal or satisfaction; there is no return for revision.	The court may return the arbitral award to the AIFC tribunal/panel to correct a remediable defect (e.g. compound interest formula) within 60 days.	Art. 501-4 of the Code of Civil Procedure "Return of an arbitral award to eliminate defects (remit)"; Article 66-3 of the Law "On Arbitration" - a direct reference to remit as an analogue of para. 1059 ZPO / para. 68 AA HK.	Avoids automatic refusal; solves the problem of "compound interest"; the investor is protected.
5	Issue of execution writ and open register	An electronic writ of execution is permissible (Law on Enforcement Proceedings).	The writ of execution is generated by the portal within 3 working days after the decision of the Collegium KAEM; the final acts are published in the KAEM register.	Article 12-1 of the Law "On Enforcement Proceedings" - automatic generator of executors; order of the Ministry of Justice on the open register of KAEM.	The enforcement stage is accelerated; transparency and market confidence increase.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ВИКОНАННЯ ІНОЗЕМНИХ АРБІТРАЖНИХ РІШЕНЬ У КАЗАХСТАНІ: ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ЄВРОПЕЙСЬКИХ ТА АЗІЙСЬКИХ МЕХАНІЗМІВ

Азамат Нуртан* та Майгуль Абілова

АНОТАЦІЯ

Вступ. Підвищення ефективності визнання та виконання Казахстаном іноземних судових та арбітражних рішень значною мірою залежить від розширення міжнародного співробітництва. У контексті посилення глобальної правової інтеграції ця стратегія є життєво важливою не лише для підтримки зовнішньоекономічної діяльності країни, але й для підвищення довіри іноземних партнерів до судової системи Казахстану. Наразі Казахстан є учасником ключових договорів, зокрема Нью-Йоркської конвенції 1958 року, Вашингтонської конвенції 1965 року та Мінської конвенції 1993 року. Однак він ще не приєднався до Гаазької конвенції 2019 року — сучасного універсального механізму, що підтримується багатьма країнами, до яких належать і держави-члени ЄС, і Сполучені Штати, — що могло б ще більше спростити процеси трансграничного виконання рішень.

Методи. Для досягнення цілей було проведено порівняльно-правовий аналіз механізмів визнання та виконання іноземних арбітражних рішень у Казахстані та провідних арбітражних юрисдикціях Європи та Азії. У цьому аналізі використовувалися офіційні судові бази даних Казахстану, AIFC та IAC, а також додаткові дані із судових архівів, установ (KIAS, ICC, SIAC) та виклади CLOUT, що дозволило провести комплексне порівняння азійської та європейської юрисдикції. У дослідженні використовувалися такі методи, як статистичний аналіз відмов відповідно до статті 501 Цивільного процесуального кодексу та порівняльний огляд національного законодавства з положеннями Нью-Йоркської конвенції та UNCITRAL.

Результати та висновки. Аналіз показує, що понад 40% відмов у визнанні та виконанні іноземних арбітражних рішень у Казахстані зумовлені нечітким тлумаченням публічного порядку та процесуальними перешкодами, тоді як у юрисдикціях, що підтримують арбітраж, у всій Європі та Азії, такі відмови не перевищують 10%. Запропонований механізм забезпечення виконання арбітражних рішень у Казахстані (КАЕМ) містить уточнення критеріїв відмов та прийняття рішень на основі статті V Нью-Йоркської конвенції, запровадження прискорених електронних процедур через єдиний портал електронного правосуддя, створення спеціалізованих програм підготовки суддів, а також впровадження механізму

повернення справ до арбітражних судів для усунення формальних недоліків, замість практики автоматичної відмови у визнанні та виконанні таких рішень. Автори пропонують розширити договірну базу, приєднатися до нових міжнародних конвенцій, прийняти прогресивні механізми ЄС та UNCITRAL, а також інтегрувати цифрові рішення для покращення практики правозастосування в Казахстані, підвищення рівня зацікавленості в ньому як у регіональному арбітражному центрі, а також зміцнення правової визначеності та довіри іноземних інвесторів.

Ключові слова: іноземні арбітражні рішення; виконання арбітражних рішень; арбітражна реформа в Казахстані; Нью-Йоркська конвенція (1958 р.); судове втручання в арбітраж; порівняльно-правовий аналіз; механізм забезпечення виконання арбітражних рішень у Казахстані.