



**GRATA**  
INTERNATIONAL

# GRATA International Mongolia

---

2022

Prepared (by) Buyanjargal Tungalag  
Associate of GRATA International Mongolia LLP

# ENFORCEMENT PROCEEDING OF FOREIGN COURT JUDGMENT AND ARBITRAL AWARDS



---

## Content

- Recognition in treaties & laws
  - Judicial system of Mongolia
  - Enforcement proceeding
  - Documentation
  - Procedure for compensation
-

# RECOGNITION IN TREATIES & LAWS

## Convention on Civil Procedure

- Ratified in 1999

## Convention on the Recognition and Enforcement of Foreign Arbitral Awards /New York Convention/

- Ratified in 1994 subject to the following declaration
- *“Mongolia will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of arbitral awards made only in the territory of another Contracting State.”*
- *“Mongolia will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of Mongolia.”*

## Bilateral treaties on mutual legal assistance in Civil & Family cases

- Hungary
- Romania
- Bulgaria
- France
- Kazakhstan
- Poland
- Russia
- Vietnam
- Kyrgyzstan
- Turkey
- Canada
- India
- China

# RECOGNITION IN TREATIES & LAWS

## Law on Arbitration

- §48.1
  - the arbitral award shall be enforceable regardless of where it has been issued and shall be enforced in accordance with the NY Convention.

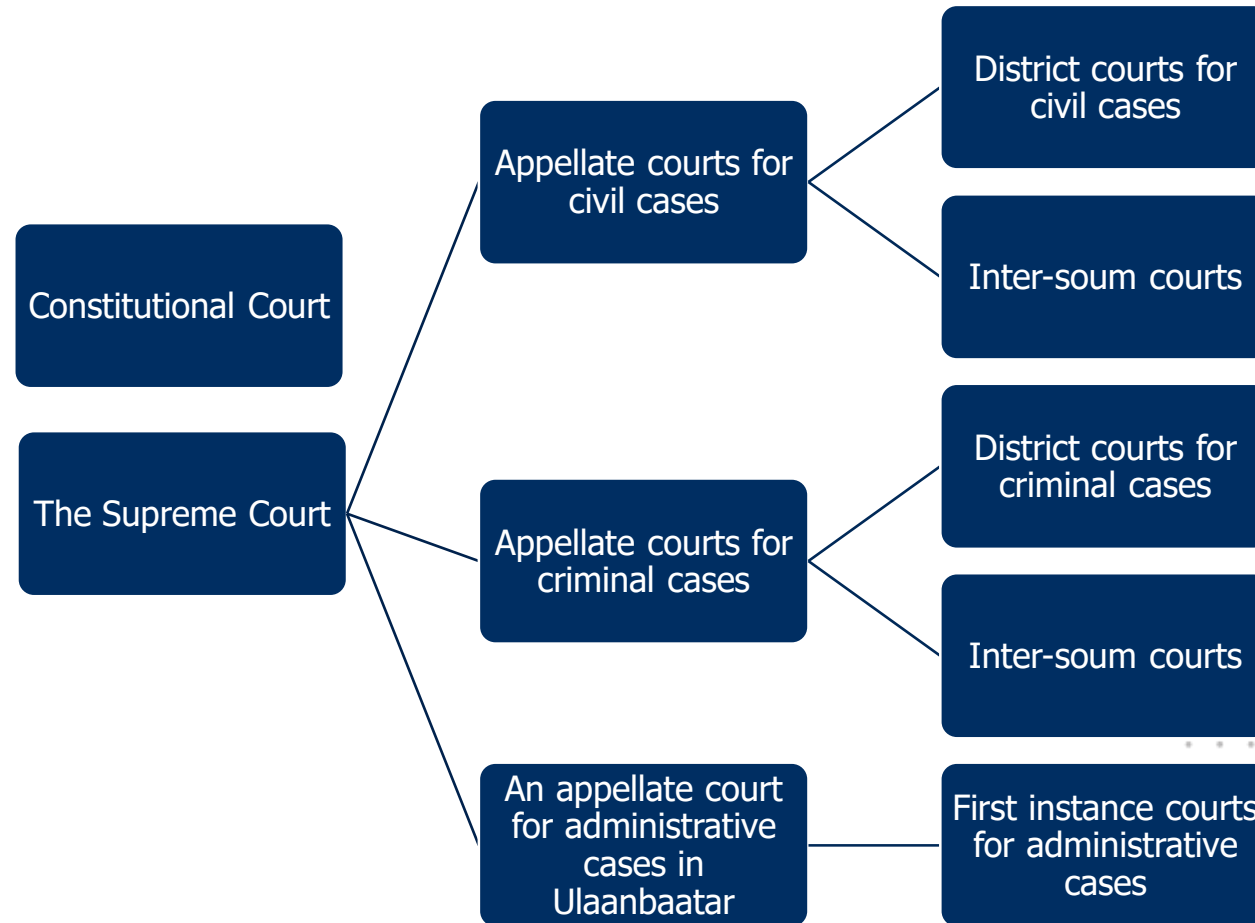
## Civil Procedure law

- §194.1
  - Procedure for enforcement of Mongolian and Foreign Court Judgments shall be governed by the laws of Mongolia and international treaties of Mongolia.

## Law on the Enforcement of Court Decisions

- §6.2
  - Civil Court Judgment Enforcement shall be conducted upon the following decisions:
    - §6.2.3.
      - if provided by the international treaties of Mongolia, foreign court, international court judgments, and arbitral awards;

# COURT SYSTEM OF MONGOLIA



# ENFORCEMENT PROCEEDING

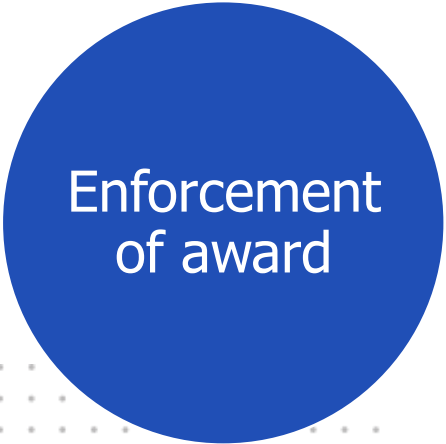
Statutory period = 3 years

Application to the first instance court of foreign country

Ministry of Justice and Internal Affairs of Mongolia shall receive



Application for enforcement of the award



- To the first instance civil court having jurisdiction over the respondent or respondent's assets for the enforcement

\*Reimbursement agreement

- To the Judgment Enforcement Office of Capital City

- By a district bailiff having jurisdiction over the respondent or respondent's assets

# ENFORCEMENT PROCEEDING

## ENFORCEABILITY

### Arbitral award

- Incapacity of the Parties;
- The AA is invalid;
- The responded was not notified of the arbitral proceeding properly, or otherwise unable to present his case;
- The award deals with matters not contemplated by the AA;
- Tribunal or the arbitral proceeding was not in accordance with the AA or law of the country where the arbitration took place;
- Arbitral award has not yet become binding, or the competent authority has set aside of suspended arbitral award;
  
- Subject matter of the dispute cannot be settled by arbitration under the Mongolian laws or is subject to exclusive jurisdiction of Mongolia;
- Recognition and enforcement of the award would be contrary to the public policy of Mongolia.

### Court judgment

- Disputes relating to the ownership, possession and use of immovable property located in the territory of Mongolia;
- Disputes relating to the re-organization or liquidation of legal entities established under Mongolian law and disputes arising out of resolutions and decisions made by those legal entities, their branches and representative offices;
- Disputes relating to the validity of registrations made by Mongolian courts and other public administration offices;
- Disputes relating to the validity of registration of patents, trademarks and other IP rights by a Mongolian administrative office and disputes relating to the application of registration of IP rights;
- Disputes relating to the enforcement of court judgments in Mongolia or disputes relating to requests for enforcement

# DOCUMENTATION

---

## WHAT DOCUMENTS ARE REQUIRED?

- Original or apostilled copy of the arbitral award/court decision
- Original or apostilled copy of arbitration agreement or an agreement that contains arbitration clause
- Certified translation of the above documents
- An official request
- Reimbursement agreement



# PROCEDURE FOR COMPENSATION

---

## ADVANCE PAYMENT OF EXPENDITURE

- Expenses related to seal, pledge, seizure, storage, transportation, transfer, and sales of the payer's property;
- Expenses related to search and detection of the payer, his/her concealed property;
- Remuneration for participants in the enforcement proceeding;
- Expenses related to transfer of parcels, posts, telecommunications, and properties to the recipient;
- Other expenses incurred in the course of the enforcement proceeding.

# PROCEDURE FOR COMPENSATION

---

Monetary assets



Other assets except for  
the ones not in circulation  
or restricted in circulation



# PROCEDURE FOR COMPENSATION

Seizure, sales, and withholding

- **Following assets not directly related to production and execution of goods, works, services**

- Monetary assets;
- Movable properties;
- Securities;
- End products;
- Materials and valuable items;
- Property rights;
- Immovable properties;

- **Following assets directly related to production and execution of goods, works, services**

- Movable & immovable property;
- Goods, materials;
- Other raw materials;
- Equipment;
- Securities.

# SUMMARY

---

- Foreign court judgment and arbitral awards are recognized and enforced in Mongolia.
- The court judgment and arbitral award must be binding on the parties according to the law of the foreign country.
- The subject matter of the dispute/difference must not be subject to exclusive jurisdiction of Mongolia.
- The enforcement proceeding will be conducted upon a writ of execution.
- Expenses incurred in the enforcement proceeding have to be paid in advance.



**THANK YOU!**

---

Buyanjargal  
Tungalag

976-99028309

[btungalag@gratanet.com](mailto:btungalag@gratanet.com)

[www.gratanet.com](http://www.gratanet.com)



**QUESTIONS?**

---