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## Litigation & Arbitration

A guide to enforcing  
foreign court  
judgments across  
various jurisdictions



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# Introduction

The ultimate purpose of any litigation or alternative dispute resolution procedure is obtaining an enforceable decision (award). Based on this premise, our chosen topic covers the most common issues typically arising in the course of enforcing domestic judicial decisions in other jurisdictions:

- What are the requirements applicable to the recognition and enforcement of judgements entered in the State of origin in another State?
- What particular formalities need to be followed?
- Which courts have jurisdiction to hear applications for recognition and enforcement of foreign judgments?
- What are the costs typically incurred in this type of proceedings?

In this guide, lawyers from various European jurisdictions provide a practical overview of the requirements that must be satisfied and of the steps that need to be undertaken to seek the recognition and enforcement of foreign judgments. Acknowledging the different legal traditions of the jurisdictions subject to analysis, this guide outlines the similarities, but it also clearly points to the existing differences across different States.

We do hope that this guide will be of interest and useful to any litigants (or potential litigants) seeking the recognition and enforcement of their foreign judgments in any of the covered jurisdictions.

Enjoy the reading.

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# Albania

## Overview of the procedure

In Albania the rules applicable to the recognition and enforcement of foreign civil and commercial judgements are laid down in ratified international/bilateral treaties and in the Civil Procedures Code of Albania ("**CPC**").

The Albanian Constitution stipulates that international treaties have priority over domestic laws. Therefore, where an international bilateral treaty in place, the provisions of this treaty prevail over domestic laws. International treaty provisions are supplemented by internal procedural requirements under the Albanian CPC. Where no international treaty exists, the provisions of the CPC apply.

Generally speaking, the recognition and enforcement of foreign judgements in Albania is quite straightforward. The Albanian Court of Appeals have jurisdiction to deal with applications for recognition and enforcement of foreign judgements acting as first instance courts. Exequaturs are granted by the Court of Appeal of the domicile of the person/entity against which the recognition

## Formal Requirements

Applications for recognition and enforcement of foreign judgements may be filed to the competent Court of Appeal either directly or via diplomatic channels where international treaties allow for this possibility or on basis of reciprocity with the State of origin.

## Competent Court

While examining the application for recognition and enforcement of a foreign judgment, the Court of Appeals must summon the party against whom the recognition and enforcement is sought. This is to ensure that such party is heard, allowing it an opportunity to raise and prove any objections. Significantly, the Court of Appeals does not enter into the merits of the case. Instead, it simply conducts a formal examination of the application to ensure it complies with the relevant CPC provisions.

The Court of Appeal also verifies that the applicant has submitted an original or a certified copy duly translated into Albanian of the foreign judgement. Certified copies must be issued by the court that rendered the foreign judgement confirming that such judgment is final and binding. Certified copies need to be translated into Albanian, and be legalized.

Pursuant to the CPC foreign judgement must fulfill the following requirements:

- the dispute must have been resolved by a court of competent jurisdiction;
- the lawsuit and the court summons must have been properly served on the defendant, thus allowing it the opportunity to oppose the claim;
- the foreign judgment must not be incompatible with another judgement passed by the Albanian courts between the same parties and on the same dispute;

- there must be no ongoing proceedings pending before an Albanian court filed prior to the foreign judgement becoming final and binding;
- the final and binding foreign judgment must not be in violation of applicable laws or, indeed, Albanian laws.

## Length of process

Applications for recognition and enforcement of foreign judgements used to be disposed of within 30 days. However, the removal from duty of many Court of Appeal judges as a result of an on-going vetting process in the Albanian judiciary and the recent implementation of a new judicial structure causing the number of Courts of Appeal to drop from six to one mean that applications for recognition and enforcement of foreign judgments now take approximately one year.

## Costs estimate

The costs for recognition and enforcement of foreign judgements are nominal. There is a €2 filing fee and a €5 court fee, which also includes the delivery of a certified court judgement. Please note, however, that additional translation fees may also apply.



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# Belgium

## Overview of the procedure

In Belgium different rules and formalities apply to the enforcement and recognition of foreign judgments based on the State in which the foreign judgement was entered (the State of origin). For the purposes of this contribution, we will address the recognition and enforcement of foreign judgments in civil and commercial matters.

## Formal Requirements

**EU judgments** are enforceable in Belgium by simply providing a certified copy of the EU judgment accompanied by:

- a certificate from the court of the State of origin confirming that the judgment was entered in a civil or commercial matter (see Annex I to the Brussels I Bis Regulation);
- an official translation of the original judgment and the certificate if these are in a different language other than any of the three languages official in Belgium (i.e., French, German and Dutch).

**Non-EU judgments** require an official recognition known as exequatur. In general, and subject to the specific requirements under the relevant applicable convention, the following documents must be submitted to the Belgian court:

- a certified copy of the foreign court judgment which, according to the laws of the State of origin, meets applicable authenticity requirements;

- in the case of a foreign judgment entered in default of the defendant, an original or a certified copy of the document establishing that the lawsuit or equivalent document instituting the proceedings was served on or brought to the attention of the defendant in default in accordance with the laws of the state of origin;
- documents establishing the enforceability and service of the foreign judgment on the defendant according to the laws of the State of origin.

## Competent Court

**EU judgments:** N/A

**Non-EU judgments:** exequatur applications must be filed with the Court of First Instance of the domicile of the party against whom enforcement is sought, or of the place of enforcement.

For judgements rendered by courts of Member States of the European Union, Regulation 1215/2012 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters (“Brussels I bis Regulation”) applies.

For judgments entered in non-EU countries, international conventions, bilateral conventions, or the Belgian Code on Private International Law I apply. Following the Brexit, the 1934 bilateral Convention for the Reciprocal Enforcement of Judgments between Belgium and the United Kingdom became relevant again.

The table below summarizes the applicable regulations, conventions, or codes of law, for the enforcement of foreign judgments in Belgium.

Legal basis for the enforcement	Countries to which it applies	Judicial procedures necessary for the enforcement	Specific elements
Brussels I bis Regulation	EU member states	None. Judgments are enforceable by law.	
Lugano II Convention	EU / Iceland – Norway – Switzerland	Judgments are automatically recognized, but an exequatur is necessary for the enforcement.	
The Hague Convention on Choice of Court Agreements	EU / Mexico – Montenegro – Singapore – UK	Judgments are automatically recognized, but an exequatur is necessary for the enforcement.	Limited to judgments based on a choice of court agreement.
Convention on the recognition and enforcement of foreign judgements in civil or commercial matters	EU / Ukraine	Judgments are automatically recognized, but an exequatur is necessary for the enforcement.	Enters into force on 1 September 2023
The 1934 bilateral Convention for the Reciprocal Enforcement of Judgements between Belgium and the UK	Belgium / UK	Judgments are automatically recognized, but an exequatur is necessary for the enforcement.	Following the Brexit, this bilateral convention is back into force.
Code of Private International Law (CPIL)	Belgium / the rest of the world	Judgments are automatically recognized, but an exequatur is necessary for the enforcement.	Foreign judgments may not be reviewed on the merits.



The main difference between the enforcement of EU versus non-EU judgments is that the former are enforceable as a matter of law. Conversely, non-EU judgments may only be enforced after a court order recognizing the foreign judgment (or exequatur) has been obtained. The proceedings to obtain an exequatur are based on a unilateral application. The court order granting the exequatur may be appealed within one month.

The court may refuse the recognition and enforcement of foreign judgments on a limited number of grounds as set forth in the relevant statutory provisions. These are mostly related to reasons of public policy, concerns with the defendant's rights of defense, the foreign judgment being irreconcilable with another judgment entered in Belgium or with pending proceedings and (under the Code



of Private International Law), evasion of the law applicable to the dispute or of the rules on (exclusive) jurisdiction.

## Length of process

**EU judgments:** N/A

**Non-EU judgments:** one to two weeks.

## Costs estimate

- €24.00 contribution + €165.00 court fee;
- Translation costs : between 0.16 and 0.20 EUR/word for an official translation;
- Bailiff costs : official notifications of court orders (exequatur) and acts of enforcement : €250- 500 / notification.

Please note that the above costs may be recovered from the other party.



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# Croatia

## Overview of the procedure

In the Republic of Croatia, the procedure for recognition and enforcement of foreign judgments varies according to the State of origin being a Member State of the European Union (“EU”) or a third country.

After Croatia's accession to the European Union on July 1st, 2013, the general rule is that foreign judgments rendered in one Member State are recognized in other Member States as a matter of law and without the need for a separate procedure.

The recognition and enforcement of non-EU judgments, including judgments from EU Member States passed in proceedings initiated before July 1st, 2013, are regulated by Croatian law.

## Formal Requirements

Applicants for recognition and enforcement of a judgment rendered in a Member State must submit a certified copy of the judgment (a European Enforcement Order) issued on the prescribed form.

In the case of European Enforcement Orders, indirect measures previously required in the Member State where the recognition and enforcement is sought do not apply if it can be established that neither the nature nor the amount of the debt were disputed. Completed European Enforcement Orders must be sent to the competent authority of the Member State of origin. Upon issuance of the European Enforcement Order, this and

a certified copy of the foreign judgment is submitted to the enforcement authorities of the other Member State in which the debtor resides or in which his property is located. An official translation of the judgment certificate may also be required.

## Competent Court

Judgments given in one Member State are enforceable in other Member States, which includes the power to take any protective measures available under the law of the requested Member State.

The procedure for the recognition and enforcement of judgments given in another Member State is regulated by the laws of the requested Member State. Judgments given in the Member State of origin which are enforceable in the requested Member State shall be enforced under the same conditions as domestic judgments.

Applicants for recognition and enforcement of judgments rendered in an EU Member State must submit a copy of the foreign judgment that fulfills the conditions necessary to establish its authenticity. Additionally, applicants must submit a certificate stating that the judgment is enforceable, including a summary of the judgment, and any other information required.

Although the general rule is that EU judgments are recognizable and enforceable as a matter of law, applications for recognition and enforcement may be

refused at the request of an interested party in the following circumstances:

- 1 if the recognition is manifestly contrary to public policy in the Member State in which the recognition is sought;
- 2 where it was given in default of the defendant, i.e., where the defendant was not served with the document instituting the proceedings or with an equivalent document in sufficient time and in such a way as to enable him to arrange for his defense;
- 3 if it is irreconcilable with a judgment in a dispute between the same parties in the requested Member State;
- 4 if it is irreconcilable with an earlier judgment given in another Member State or in a third State between the same parties in proceedings involving the same cause of action, provided that the earlier judgment fulfills the conditions necessary for its recognition in the Member State addressed;
- 5 if it is contrary to the rules on the allocation of jurisdiction;

In the face of any of the above grounds, enforcement of the judgment will be refused at the request of the person against whom enforcement is sought.

Judgments from non-EU states are only recognizable and enforceable on the basis of an international treaty or on the principle of reciprocity.

Non-EU judgments must first be recognized in Croatia before they can be enforced. The procedure for recognition

involves filing an application with a Croatian court of competent jurisdiction. Following successful recognition, non-EU judgments are enforceable using the same enforcement methods as they apply to Croatian judgments.

## Length of process

The procedure for recognition and enforcement of a foreign court judgments may take several months or years, depending on the complexity of the case and the number of legal issues at hand.

## Costs estimate

The costs of these proceedings depend on the value of the subject matter of the dispute. Costs also include possible lawyer fees, court fees and translation costs.



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# Czech Republic

## Overview of the procedure

In the Czech Republic, the recognition and enforcement of foreign judgments rendered in a Member State falls under the scope of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the “**Brussels I bis Regulation**”) and the Czech Private International Law Act (the “Act”), which applies to areas not covered by the Brussels I bis Regulation. As for non-EU judgments reference must be made to bilateral or multilateral international treaties.

## Formal Requirements

If the obliged party refuses to pay his debt or fulfill his non-monetary obligation of his own accord, the claimant usually has no other choice but to seek court enforcement. First, the claimant must obtain a writ of execution - typically a judgment. Only then can the claimant proceed with the enforcement of his rightful claim. Provided that sufficient assets are available in a different state (Czech Republic), it is generally possible to enforce such foreign judgments in the Czech Republic. For this reason, Prior to any further steps, claimants need to ensure that the obliged party has sufficient assets that can be seized (e.g., cash in bank accounts, shares in a Czech company, real estate, etc.) or non-monetary obligation can be performed before deciding to apply for enforcement with a Czech court.

## Competent Court

In the Czech Republic, foreign and domestic judgments are enforceable by the courts or by private bailiffs. Unlike bailiffs, the courts do not conduct a search of the debtor’s assets liable to seizure. If a claimant chooses to proceed with judicial enforcement, he will do well in conducting that search himself. As a result, enforcement by bailiffs is far more effective. Our discussion below will focus on this enforcement method.

The procedure for recognizing and enforcing a foreign judgment varies according to the State of origin. The following scenarios may be distinguished.

Where the State of Origin is a **Member State of the European Union**, Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgement in civil and commercial matters (“**Brussels I bis**”) applies. In these circumstances, applicants need only submit a copy of the foreign judgment and the special certificate issued by the court of origin in the form provided by the Brussels I bis Regulation (including official translations of these documents where necessary) before they can approach a Czech bailiff. The bailiff then proceeds as in the case of enforcement of a Czech judgment. The costs of the bailiff are borne by the individual or entity against whom recognition and enforcement of the foreign judgment is sought.

Claimants seeking to enforce a judgment entered in a non-EU jurisdiction face a more complex situation. First, it has to be

established whether any international treaty on legal assistance has been concluded between the Czech Republic and the state of origin . If no such international treaty exists, claimants must follow the procedure set out in the Act, which involves a special foreign judgment recognition procedure in front of a Czech court. As part of the recognition formalities, the foreign judgment must be translated into Czech and apostilled. After recognition, claimants may then directly ask the bailiff to enforce the foreign (recognized) judgment. Please note that, **this procedure also applies to judgments entered by the British courts in proceedings initiated after the Brexit cut-off date, i.e., December 31, 2020.**

Where an international treaty on legal assistance between the Czech Republic and the state of the origin is in place, international treaties typically envisage simplified recognition and enforcement formalities. However, it is important to note that many of these international treaties were concluded at a time when bailiffs did not exist in the Czech Republic, which means that only judicial enforcement was available. Where this is the case, claimants are often unable to rely on the international treaty and need to proceed as described in the preceding paragraph.

In each of the above scenarios, applicants must ensure that the foreign judgment meets the requirements set out in the Brussels I bis Regulation, the Act, or the relevant international treaty, respectively. Otherwise, the individual or entity against whom the enforcement is sought is most certainly going to challenge the application for recognition and enforcement.

## Length of process

Where the application is challenged, the procedure is likely to stretch on for up to approx. eighteen months (as opposed to the standard length, which is usually around six months).



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# Finland

## Overview of the procedure

Pursuant to Section 30(1) of the Finnish Act on International Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters (426/2015) civil judgments issued in a foreign jurisdiction may be recognized and enforced in Finland in accordance with international treaties binding on Finland or subject to specific legislation, including EU regulations.

Judgments given in another member state of the EU ("**EU Judgments**") are recognized and enforceable in Finland as a matter of law and without following any additional procedure. Judgments entered elsewhere ("**Non-EU Judgments**") must be declared enforceable in Finland by a Finnish district court.

This short article only applies to civil matters. The recognition and enforcement of judgments entered in criminal, family and transport law matters (to name only a few) are governed by other regulations.

## EU judgements

- EU Judgments are recognized and are directly enforceable in Finland in accordance with the Brussels I Regulation (EU) No 1215/2012. In practice, this means that EU Judgments need not be declared enforceable by a Finnish district court.

- Enforcement applications are submitted directly to the Enforcement Authority of Finland ("**Ulosottolaitos**"). Applicants for enforcement of EU judgements need to start formal court proceedings only where the EU Judgment includes measures or orders that have no equivalent counterpart in Finland. In such a case, the bailiff shall transfer the enforcement application to the district court ("**käräjäoikeus**") for assessment and adjustment to the Finnish legal system of the measure included in the EU judgment, to the extent possible. In addition, the district court has jurisdiction to process applications on the denial of recognition or enforcement of EU Judgments.
- Applications must be submitted in Finnish or in Swedish and must include a copy of the EU Judgment and a certificate of enforceability pursuant to Art 53 of the Brussels I Regulation (the "Art 53 Certificate"). The EU Judgment may be submitted in the original language, but the Finnish district court may require a translation.
- The length of the proceedings depends largely on the circumstances of the case at hand. Applications for recognition are processed in a matter of

weeks depending on the district court's view of the urgency of the matter. However, pursuant to the Brussels I Regulation, the Art 53 certificate must be served to the respondent prior to any enforcement measures can be taken. In Finland service of the Art 53 Certificate must be made in accordance with certain formalities (evidential service). Where the location of the respondent is unknown, or service becomes difficult for other reasons, the proceedings can take months or even turn out to be unfeasible altogether. Therefore, while attempts for service of the Art 53 Certificate are under way, it is advisable to apply for a protective measure enforceable under Art 40 of the Brussels I Regulation.

- The cost of enforcement depends on the enforcement measure applied. The need for court proceedings and/or protective measures do also have an impact on enforcement costs. For monetary claims, enforcement costs amount to 1.45 % of the value of the claim, up to EUR 5,000 plus a small administrative fee.
- Please note that the above applies only to judgments entered in court proceedings instituted on or after 10 January 2015 . Prior to that date the Brussels I Regulation (EC) No 44/2001 applies.



## Non-EU judgements

- Judgments issued in Iceland, Norway or Switzerland may be recognized and enforced in accordance with the Lugano Convention. Judgments issued in Denmark may be recognized and enforced in accordance with the Brussels I Regulation (EC) No 44/2001. Other international treaties, such as the Hague Convention, also provide regulations applicable to the recognition and enforcement of foreign judgments. Where no international treaty binding on Finland exists, the foreign judgment cannot be recognized or enforced.
- Non-EU Judgments have to be declared enforceable by the relevant district court (“käräjäoikeus”) after following a special procedure known as exequatur. Once declared enforceable, an enforcement application may be submitted to the Enforcement Authority of Finland. The formalities of the procedure depend on the treaty or regulation applicable to the matter at hand.
- The exequatur procedure takes several months. Also, document service issues similar to those discussed above (see Enforcement of EU Judgements) may also arise during this procedure.
- Exequatur applications attract a EUR 270 court fee. For the costs of subsequent enforcement, please see above (EU Judgments).



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# France

## Overview of the procedure

In France, the rules and procedures applicable to the recognition and enforcement of foreign judgements varies depending on the State in which the foreign judgement was rendered (the State of origin).

The recognition and enforcement of judgements passed by the courts of Member States of the European Union (“EU”), Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgement in civil and commercial matters (“Brussels I bis”) largely applies. Other instruments exist providing similar rules for other matters, including family law and uncontested claims.

The recognition and enforcement of judgements originating in non-EU countries or in respect of which no regulation similar to Brussels I bis exists, must follow the procedure laid down by the French Code of Civil Procedure.

The analysis below distinguishes EU judgments that fall under Brussels I bis or another similar regulation) from non-EU judgements.

## Formal Requirements

Unlike EU judgments, the recognition of a non-EU judgement requires a declaration by a French court prior to enforcement.

However, provisional measures may still be sought in France as the French

enforcement judgement is being dealt with.

A new trial will still be necessary if the debtor of an EU judgement challenges its enforcement in France.

A different procedure applies to the enforcement of arbitration awards in France, but it will not be addressed here, as the present article only deals with enforcement of foreign judgments.

## Procedure

**EU judgements:** for an EU judgement to be enforceable in France, the following requirements must be satisfied:

the foreign judgement must be enforceable in the State of origin;

- The certificate of enforceability provided for in Article 53 of Brussels I bis must have been notified to the debtor;
- The applicant for recognition and enforcement must provide the bailiff with: (i) a copy of the foreign judgement issued in accordance with the laws of the EU State of origin; and (ii) the certificate of enforceability.

No translation of the above documents is required under French law, but it is common practice for bailiffs to ask for it.

## Non-EU judgements:

- An application for recognition and enforcement must be lodged with a French court of competent jurisdiction. Where there is no French court territorially competent pursuant to French procedural rules, the applicant can file the application in any French court of his or her choice;
- the defendant must be served with the copy of the application, which will then be registered with the court's clerk;
- for an application to be admissible, the applicant must provide: (i) a certified copy of the foreign judgement the enforceability of which is sought, and (ii) a certified French translation of the judgement;

## Competent Court Requirements

Different requirements apply to the recognition and enforcement of EU and non-EU judgements.

**Non-EU judgements** may be recognized and enforced provided the following requirements are satisfied:

- Jurisdiction of the foreign judge over the matter, This means that (i) the French judge did not have exclusive jurisdiction over the matter; and (ii) there is a connection between the dispute and the foreign judge;
- The foreign judgment must comply with international public order, including the fundamental principles of due process;
- No “forum shopping”: the claimant

must not have submitted its claim with the courts of the State of origin for fraudulent purposes e.g., to circumvent French law.



Some bilateral conventions provide for different requirements and may be more specific. For example, no appeal against the foreign judgement must be available in the courts of the State of origin).

**EU judgements:** certain requirements are provided by the applicable regulation. These are less restrictive in that, for example, the jurisdiction of the foreign judge is not taken into consideration.

**UK judgements** for which proceedings started before 31 December 2020 can be enforced following the rules of Brussels I bis.

For proceedings started after this date, the rules for non-EU judgments apply.

## Length of process

**EU judgements:** Once the certificate of enforceability and an official translation in French are available, enforcement takes only a few days.

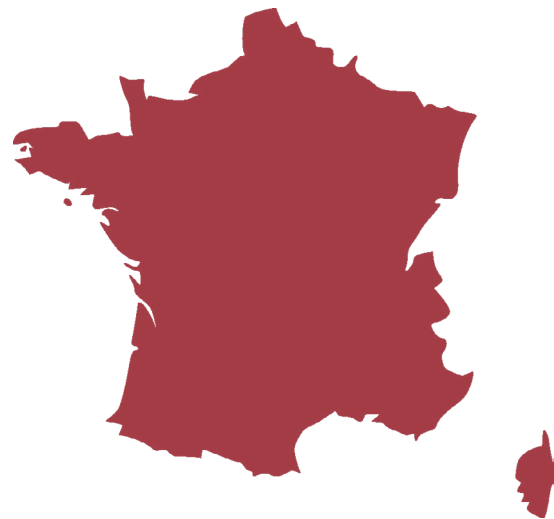
**UK judgements** The length of process depends on the relevant court. In Paris, recognition and enforcement proceedings may take at least one year.

## Costs estimate

**EU judgements:** Enforcement costs vary depending on the number of pages to be notified and the enforcement measure sought.

**UK judgements** Enforcement costs include: (i) Court fee (less than €50 by party in defense); (ii) notification fees (€90- €500 EUR per party, depending on the number of pages, and the place of service); (iii) lawyer's fees; (iv) translation costs (other

than the judgement, translations need not be certified); (v) notification of the judgement (vi) enforcement costs where the debtor refuses to comply with the enforceable judgment.



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# Germany

## Overview of the procedure

In Germany, judgments rendered by a court of a member state of the European Union (“**EU Judgements**”) are recognized by operation of the law (Art. 36 (1) of Regulation (EU) 1215/2012). Once recognized by a German court, EU Judgements are enforceable as if they had been passed by a German court.

Judgments originating in non-EU jurisdictions (“**Non-EU Judgements**”) are only recognizable and enforceable in Germany under the conditions set forth in Sec. 328, 722 of the German Code of Civil Procedure (“**ZPO**”) unless bilateral or multilateral treaties apply. Therefore, non-EU Judgements are only recognized provided the requirements under Sec. 328 ZPO are satisfied. Also, exequatur proceedings as set forth in Sec. 722 ZPO i.e., need to be followed. Exequatur is the name given to the recognition and enforcement of Non-EU Judgments. This is often time-consuming and associated with further costs. Since Brexit, the same applies to judgements from the United Kingdom (“**UK**”).

## Formal Requirements

### Procedure of recognition and enforcement of foreign judgements in Germany

**EU Judgements** are enforceable exactly as their domestic counterparts and do not require an exequatur

procedure. The enforcement procedure is subject to German law:

- To initiate the enforcement of a foreign judgment, a creditor must file an application with the competent German court or bailiff. The competent authority depends on (i) the subject-matter of the enforcement and (ii) the specific enforcement measure sought. Enforcement takes place either at the local court where the debtor has his general place of jurisdiction or at the place where his assets are located.
- The application must enclose a copy of the foreign judgment (“**Ausfertigung**”), which must be issued in accordance with the laws of the EU member state of origin. Applications must also include an original certificate of enforceability (“**Vollstreckbarkeitsbescheinigung**”) pursuant to Art. 53 and Annex I of Regulation (EU) 1215/2012. This is a standard form and contains essential information for enforcement, in particular about the enforceability of the foreign judgment. The certificate of enforceability replaces the enforcement clause (“**Vollstreckungsklausel**”) usually required under German law.
- Applications must be submitted in German. However, the foreign judgment and the certificate of enforceability may be submitted in the original foreign language. The need

for a translation is at the discretion of the German competent authority, which will consider whether it is able to review the application without a translation. Usually this is possible due to the use of the standard form in Annex I of Regulation (EU) 1215/2012 (cf. above).

**Non-EU judgements** are recognized by operation of the law provided they meet the following requirements, as set forth in Sec. 328 ZPO: (i) The foreign court must have had international jurisdiction, (ii) the defendant's right to be heard must have been respected, (iii) there must be no prior conflicting decision, (iv) there must be no previous proceedings pending in Germany over the same matter, (v) the enforcement sought must not be contrary to German ordre public and (vi) reciprocity with the state of origin exists, i.e. German judgements must also be enforceable in the relevant State of origin.

The enforcement of a **Non-EU Judgement** is dealt with by following the exequatur procedure as set forth in Sec. 722 et seq. ZPO. As part of these formalities, the German court examines whether the Non-EU Judgement is formally final and binding (**formell rechtskräftig**) and whether it satisfies the principle of certainty (**Bestimmtheitsgrundsatz**). Additionally, there must be no reason for refusing the application within the meaning of Sec. 328 (1) ZPO (see above). Thus, the following procedure applies:

- The creditor must file a claim with a German competent court. This is the court of the debtor's general place of jurisdiction (Sec. 12 et seq. ZPO) or – if the debtor does

not have a general place of jurisdiction in Germany – the court where the debtor's assets are located (Sec. 23 ZPO). The choice of competent court also depends on the amount of the claim excluding accrued interest.

- The subject-matter of the claim ("**Streitgegenstand**") is the enforceability of the foreign judgment in Germany.
- A certified copy of the judgement the enforceability of which is sought must be submitted, including an official German translation of the foreign judgement.
- The judgement in the exequatur procedure serves as the legal basis for the enforcement. The judgment must include an enforcement clause and served on the debtor.

## Competent Court

### Recognition and enforcement of UK judgments

**Until Brexit:** the recognition and enforcement of UK judgments was governed by the EuGVVO. However, this now only applies to proceedings commenced before 31 December 2020.

**After Brexit:** on 1 January 2021 the UK became a party to the Hague Convention on Choice of Jurisdiction of 30 June 2005 (the "Hague Convention"). If the Hague convention applies, because the parties are merchants and have agreed on an exclusive place of jurisdiction, judgments of a contracting state are recognizable and enforceable without a review (Art. 8 (1) and (2) of the Hague Convention), unless certain legal impediments apply (Art. 9 Hague Convention). If the Hague Convention does not apply, creditors must initiate an exequatur procedure in Germany.

## Length of process

**EU judgements:** The procedure usually takes a few weeks. However, it can also take longer in individual cases and depending on the enforcement measure sought.

**Non-EU judgements:** The *exequatur* procedure usually takes several months.

## Costs estimate

**EU judgements:** Enforcement costs are usually a function of the amount of the claim and of the enforcement measure sought.

**Non-EU judgements:** The court fee associated to an *exequatur* application amounts to €264,00. Based on the amount claimed, the acting lawyer receives a procedural fee. Enforcement costs depend on the amount of the claim and on the enforcement measure sought.



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# Hungary

## Overview of the procedure

In Hungary, the rules on recognition and enforcement of foreign judgements are laid down in the Private International Law Act and in the Judicial Enforcement Act. However, these provisions only apply to matters that fall outside the scope of EU regulations and international conventions and treaties. The Hungarian domestic provisions are preceded by various EU regulations, including a number of international conventions. As a result, the Hungarian Private International Law Act applies to non-EU foreign judgements to the extent that no international convention exists with the State of origin and to judgements of other EU member states not covered by EU law.

## Formal Requirements

In Hungary, foreign judgements may not be enforced until declared enforceable by a Hungarian court as part of a separate procedure. For the declaration of enforceability, the foreign judgement must contain an obligation. Applications for enforcement must be accompanied by an original or a certified copy of the foreign judgement, including a translation if required. Generally, the district court of the defendant's Hungarian domicile or registered office has jurisdiction over the matter. It is important to note, however, that even after an enforceability certificate has been issued, separate enforcement proceedings must be initiated.

Prior to Brexit on 31 January 2020, the

## Competent Court

United Kingdom (“UK”) was part of the Brussels Ia Regulation, which means that civil and commercial judgements rendered in the UK were recognizable and enforceable elsewhere in the EU pursuant to the Brussels Regulation. After Brexit however, uncertainty is a feature of the recognition and enforcement of UK judgements, as there is no uniform system.

Before exiting the European Union, the UK was a member of the Lugano Convention, which provides a similar framework for the recognition and enforcement of judgements in civil and commercial matters. After Brexit, however, the UK is no longer a member of the convention. As a result, the provisions of the Hague Convention on choice of court agreements apply to the recognition and enforcement of British judgements in civil and commercial matters, but only if the jurisdiction of the British court is based on an exclusive choice of court agreement. Post-Brexit, there is virtually no distinction in Hungary between the recognition and enforcement of UK judgements and those of (other) third countries.

Under the Hungarian Private International Law Act, foreign judgments may be recognized provided the following conditions are satisfied: (i) jurisdiction of the foreign court, (ii) binding nature of the foreign judgement according to the laws of the State of origin, and (iii) none of the grounds for refusing recognition apply.

Potential grounds for refusal may include: reasons of public order, infringement of the right of defense due to a lack or the improper service of the court summons to the defendant, the statement of claim or other document instituting the proceedings, or if proceedings involving the same cause of action and between the same parties were brought in Hungarian courts before the opening of foreign proceedings. Another ground for denial is if a legally binding Hungarian judgement involving the same cause of action and the same parties, or if a legally binding judgement of a foreign state other than the state of the court, involving the same cause of action and between the same parties, which complies with the recognition requirements in Hungary, has been passed.

Moreover, in the case of judgements relating to property law, reciprocity between Hungary and the State of origin is necessary for recognition and enforcement. In the absence of reciprocity, these judgements may only be recognized and enforced if Hungarian courts had no jurisdiction over the case, or if the jurisdiction of the foreign court was based on a choice of court agreement consistent with Hungarian law.

Contrary to enforcement, recognition of foreign judgements needs no further proceedings. To the extent that the legal requirements of recognition are fulfilled, the foreign judgement has the same legal effects as Hungarian judgements. Naturally, the claimant can file an application and follow a special court procedure for the recognition of a foreign judgement. Such proceedings fall primarily within the jurisdiction of the district court of the defendant's domicile or registered address in Hungary or of the defendant's habitual residence.



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# Israel

## Special Chapter

### Overview of the procedure

The Foreign Judgments Enforcement Act governs the recognition and enforcement of foreign judgments in Israel (the "FJEA"). The FJEA provides for separate procedures for recognition of a foreign judgment: declaration of the foreign judgment as an **enforceable** judgment, **direct recognition**, and **indirect (incidental)** recognition.

A 'Foreign judgment' is defined as a judgment in a civil matter entered by a court in a foreign state, including a judgment for the payment of compensation or damages to an injured party, even if the court ruling not given in a civil matter.

### Formal Requirements

Under the FJEA, a foreign judgment is eligible for **enforcement** if the following requirements are met: (1) the foreign judgment must be rendered by a court of competent jurisdiction which according to the laws of the State of origin; (2) the judgment must be final, i.e. not subject to appeal; (3) the obligation imposed by the judgment must be enforceable according to Israeli law, and (4) the content of the judgment must be compatible with public policy. It is important to note that the Israeli Supreme Court has held that a foreign judgment should not be enforced due to a conflict with Israeli public policy only in exceptional circumstances; an allegation that a foreign judgment is flawed or unjust will be insufficient to constitute a conflict

with Israeli public policy; (5) the judgment must be enforceable in the State of origin. Once an Israeli court declares a foreign judgment as enforceable, it may be enforced as if a domestic judgment.

The enforcement of foreign judgments is subject to **reciprocity**. This means that a foreign judgment shall not be declared enforceable if entered in a State under the laws of which judgments entered by Israel courts are not enforceable. This requirement has been interpreted by Israeli courts as 'potential of enforcement.' The Court may, however, on application by the Israeli Attorney General, enforce a foreign judgment even where there is no reciprocity.

The FJEA provides a limitation period of five years for enforcing foreign judgments except where a different period has been agreed upon between Israel and the relevant State of origin or, in exceptional circumstances, where the courts grant, at their discretion, an extension of the five-year limitation period. Significantly, this requirement is not mentioned in the FJEA.

The defendant may raise the following defenses against the enforcement of a foreign judgment:

- the judgment was obtained by fraud;
- the defendant was not given a reasonable chance to bring a defense before the foreign court; namely the judgment was rendered

under a foreign system that does not provide fundamental procedures compatible with due process. The burden of proof in this respect is imposed on the defendant;

- the judgment was given by a court with no jurisdiction over the case according to Israeli private international law. The Israeli Supreme Court has interpreted this requirement in the sense of requiring residency in the foreign State at the time of commencement of the proceedings or the existence of an agreement to the jurisdiction of the foreign court;
- the existence of inconsistent judgments on the same subject-matter and between the same parties; and
- at the time that the action was brought in the foreign court, a lawsuit on the same subject-matter between the same parties was pending before an Israeli court.

A foreign judgment will not be declared enforceable in situations involving infringements of the **security or sovereignty** of Israel. In practice, Israeli courts have never refused to enforce a judgment for sovereignty or security reasons.

## Competent Court

The Court may – if it finds it justified – enforce a provisional judgment or interim order in matters of maintenance obligations, even if the judgement may still be appealed against, provided the other conditions set out in the FJEA are met.

Israeli courts shall **recognize** a foreign judgment that meets the following conditions ("**direct recognition**"): (1) where an agreement with the State of origin applies; (2) where, according to that agreement, Israel agreed to recognize foreign judgments; (3) where the judgments is enforceable under the FJEA provisions in Israel; and (4) where the foreign judgment fulfills any other conditions under the agreement.

It was ruled that where a party in an Israeli proceeding claims the existence of *res judicata* based on a foreign judgment, the appropriate route is that of **indirect recognition**. The FJEA states that **incidentally** to a hearing on a matter that falls within the jurisdiction thereof (and for that matter only) Israeli courts may recognize a foreign judgment, even if direct recognition does not apply – if it deems it is lawful and just to do so.

Whilst *recognition* is possible where there is a relevant treaty only, no treaty is required to **enforce** a foreign judgment. Also, unlike direct recognition, indirect recognition of a foreign judgment does not require a mutual treaty between Israel and the State of origin.

The claimant must file an application for recognition or enforcement of the foreign judgment with the Israeli court. The defendant may file a response, whereupon a hearing takes place.

Israel has **bilateral treaties** with several countries related to the enforcement and recognition of foreign judgments. However, these treaties have yet to be ratified. In 2021, Israel also signed (but not yet ratified) the *Convention of 2 July 2019 on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters* (the "**2019 Convention**"). Unlike Israeli law, the 2019

Convention does not apply to family law matters (including maintenance obligations), defamation, intellectual property, and privacy. Whereas under the FJEA, the foreign judgment must be final, the 2019 Convention only requires it to be enforceable in the State of origin. Additionally, the 2019 Convention recognizes jurisdiction where the natural person had his/her principal place of business in the State of origin at the time that person became a party to the proceedings in the foreign court.



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# Italy

## Overview of the procedure

In Italy, foreign judgments are generally recognizable without the need for any proceedings. Indeed, Italian and European laws state the principle of automatic recognition of foreign judgments.

## Formal Requirements

### EU regulations on recognition and enforcement of foreign judgments

EU Regulation No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("**Brussels I bis**" applies only to civil and commercial matters, with certain exceptions, including the status and capacity of natural persons, bankruptcy, social security and others.

Brussels I bis repeals the exequatur procedure contained in EC Regulation 44/2001. Accordingly, judgments rendered in one member state must be **recognized** in other member states as a matter of law and without following any specific procedure (Article 36 co. 1 Brussels I bis).

For the purposes of enforcing a judgement rendered in the State of origin elsewhere in the EU, Brussels I bis requires applicants to provide the competent enforcement authority with: a) a copy of the foreign judgment that satisfies the conditions necessary to establish its authenticity; and

b) a certificate issued pursuant to Article 53 Brussels I bis, certifying the enforceability of the judgment, including an excerpt of the judgment and, where appropriate, relevant information on recoverable court costs and the calculation of interest.

In addition, the Italian enforcement authorities may require the applicant to provide a translation of the judgement but only if they are unable to proceed without one.

## Competent Court

### General rules and Italian legislation

Under Italian laws, the recognition and enforcement of foreign court judgments is governed by Law No. 218/1995 ("**Law 218/1995**"). It should be pointed out that Law 218/1995 was not repealed following the transposition of Brussels I bis into the Italian legal system. However, Law 218/1995 does not apply where it is inconsistent with Brussels I bis and, indeed, the rest of EU rules and regulations. Therefore, Law No. 218 applies to a limited number of cases, specifically those which are not directly governed by EU rules.

## Requirements

Article 64 of Law 218/1995 states that foreign judgments may be recognized in Italy without the need for any proceedings provided the following conditions are satisfied:

- 1 the foreign judgement must have been entered by a court of competent jurisdiction consistently with Italian rules on the allocation of jurisdiction;
- 2 the lawsuit or other document instituting the proceedings must have been brought to the defendant's attention in accordance with the laws of the State of origin and in a manner respectful with the essential rights of defense;
- 3 the parties to the litigation must have been summoned to appear in court in accordance with the laws of the State of origin. Alternatively, where the foreign judgment was entered in default of the defendant, due observance of the State of origin's rules on this type of judgements is also required;
- 4 the foreign judgment must have become final (i.e., not liable to appeal) according to the laws of the State of origin;
- 5 the foreign judgment must not be incompatible with any other final judgment entered by an Italian court;
- 6 there must not be any other case involving the same subject-matter and the same parties pending in any Italian court, provided the Italian case commenced before the foreign proceedings;
- 7 the foreign judgment must not be inconsistent with Italian public policy.

to the foreign judgement, or where it is necessary to proceed with the mandatory enforcement of the foreign judgment. The foreign judgment and the recognition order shall constitute grounds for implementation and enforcement.



Pursuant to Article 67 of Law 218/1995, any person with an interest may submit an application to have an Italian court review the requirements for recognition in the event of non-compliance or objection

## Competent Court

Italian rules on the allocation of jurisdiction vary depending on the subject-matter of the foreign judgment the enforcement of which is sought: (i) in the case of real and personal property, the application for recognition must be filed with the court of the place where the relevant property is located; (ii) in the case of motor vehicles, motorcycles and trailers, with the court of the debtor's residence, domicile, abode or seat, as the case may be, and (iii) applications for enforcement of obligations to perform (obbligazioni di fare) and to refrain from a certain activity (obbligazioni di non fare), must be lodged with court of the place where the obligation is to be fulfilled.

## Costs estimate

The recognition of EU judgments attracts a fixed fee of €98.00, and a € 27.00 notification fee.

Enforcement costs depend largely on the enforcement measure sought. Broadly speaking, enforcement costs include: service of the writ of execution, service of the writ of attachment, an estimated €305 registration fee, possible entry of the attachment of the debtor's assets in the property registers, updating of the property excerpts with consultation of the titles of origin; legal and notary fees, including the fees of other professionals such as experts, judicial custodians, etc.



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# Liechtenstein

## Overview of the procedure

1.1 In Liechtenstein foreign judgments are enforceable only if an international treaty entered between the Principality of Liechtenstein and a foreign State is in place. Alternatively, a declaration of reciprocity may be made by the government. Since no declaration of reciprocity has yet been made in practice, the enforcement of foreign judgments in Liechtenstein is based on international treaties.

Otherwise, foreign judgements may only be enforced by relying on a domestic execution title. Depending on the course of the proceedings, an execution title may only be obtained after a Liechtenstein court has ruled on the merits of the case. These proceedings are not the subject of this article.

1.2 Bilateral treaties on the enforcement of foreign judgements are only in place between the Principality of Liechtenstein and Austria and Switzerland.

The treaties on the enforcement of foreign judgements with Switzerland (*Abkommen zwischen dem Fürstentum Liechtenstein und der Schweizerischen Eidgenossenschaft über die Anerkennung und Vollstreckung von gerichtlichen Entscheidungen und Schiedssprüchen in Zivilsachen*) and Austria (*Abkommen zwischen dem Fürstentum Liechtenstein und der Republik Österreich über die Anerkennung und Vollstreckung von gerichtlichen Entscheidungen,*

*Schiedssprüchen, Vergleichen und öffentlichen Urkunden*) are similar. Judgments entered by a court of competent jurisdiction within the meaning of Art. 2 of each treaty are enforceable without the need for substantive review. Both treaties also apply to arbitral awards.

The scope of application of the treaties is limited, as they do not apply, inter alia, to interim injunctions and to certain law areas including, in particular the laws applicable to parent- child relations.

1.3 Multinational treaties on the enforcement of foreign judgements concern personal, family and inheritance law, and arbitration.

Liechtenstein is a party of the Convention concerning the recognition and enforcement of decisions relating to maintenance obligations towards children (*Source*), the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (*Source*) and the Convention on Recognition and Enforcement of Foreign Arbitral Awards (*Source*).

Decisions that fall within the scope of these treaties may be enforced in Liechtenstein.

1.4 It is worth highlighting that Liechtenstein is NOT a party to the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (*Source*).

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 (*Source*) is not applicable in Liechtenstein.

**1.5** The recognition and enforceability of foreign judgments and arbitral awards are governed by the provisions of the Execution Code. There is no provision for exequatur proceedings. Rather, recognition and enforceability are to be assessed as preliminary issues in the proceedings for the granting of an execution authorization.

Special rules facilitating the recognition of foreign judgments and titles exist in individual areas of personal, family and inheritance law.

## Formal Requirements

**2.1** In the scope of application of the enforcement agreements with Austria and Switzerland, an official copy of the decision (together with an official German translation of the decision) and a confirmation of legal force must be submitted to the court.

**2.2** Special provisions exist in certain areas of personal, family and inheritance law (see Nr. 1.3).

## Competent Court

**3.1** The competent court is the district court.

**3.2** Special provisions exist in certain areas of personal, family and inheritance law (see Nr. 1.3).

## Length of process

**4.1** As mentioned above (Nr. 1.5), recognition and enforceability of a foreign judgement are

to be assessed as preliminary issues in the proceedings for the granting of an execution authorization.

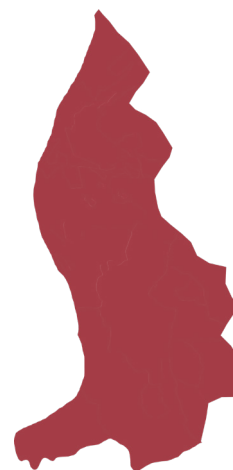
Those executions proceedings are not significantly delayed where execution is based on recognizable foreign judgments.

**4.2** Special provisions exist in certain areas of personal, family and inheritance law (see Nr. 1.3).

## Costs estimate

**5.1** As mentioned above (Nr. 1.5), recognition and enforceability of a foreign judgement are to be assessed as preliminary issues in the proceedings for the granting of an execution authorization. The costs of the execution proceedings are not increased if execution is sought on the basis of a foreign judgment. The costs of the execution proceedings themselves depend on the value of the relevant claim...

**5.2** Special provisions exist in certain areas of personal, family and inheritance law (see Nr. 1.3).



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# Macedonia

## Overview of the procedure

In the Republic of North Macedonia, the enforcement of foreign judgments is addressed in the North Macedonian Private International Law Act (“PILA”), and in the Law on Enforcement Procedure.

## Formal Requirements

The procedure for the recognition of a foreign judicial decision is initiated by a proposal for recognition. Recognition of a foreign judicial decision in matters related to personal status can be requested by anyone who has a legal interest in it.

Pursuant to Article 158 of the Private International Law Act of North Macedonia, a foreign judicial decision is equal to a decision of a court of the Republic of North Macedonia and produces a legal effect in the Republic of North Macedonia, only in case it is recognized by a court of the Republic of North Macedonia.

## Competent Court

In addition, in case when the enforcement of a foreign judicial decision is requested, along with the proposal for the recognition of the foreign decision it is necessary to submit a certificate of enforceability of the relevant decision, in accordance with the law of the country in which the decision was brought.

In this context, the foreign judicial decisions recognized by the court of the Republic of

North Macedonia in the procedure provided for by the PILA, are executed by virtue of the laws of the Republic of North Macedonia that regulate the execution.

Article 160 of the PILA, stipulates that a foreign judicial decision settled by a foreign forum, shall not be recognized if there was exclusive jurisdiction of a court of the Republic of North Macedonia established in accordance with the laws of North Macedonia. With this said, the exception here is only if the PILA allows for certain disputes to be initiated before a foreign court regardless of the existence of a provision for exclusive jurisdiction.

The PILA envisages procedural elements that the court looks after ex officio before deciding on the recognition and enforcement of the foreign judicial decision. Namely, the court shall examine whether the foreign judicial decision is submitted in original with clauses for enforcement and validity, if there is existence of a exclusive jurisdiction of North Macedonia, if the foreign court exceeded its jurisdiction when deciding, whether the case was already considered res judicata and finally, the effect of the foreign judicial decision vis-à-vis the public order of North Macedonia.

The foreign judicial decision shall not be recognized if the effect of its recognition represents a violation of the public order of the Republic of North Macedonia.

Along with the ex officio duties of the court, a court of North Macedonia shall refuse to recognize a foreign judicial decision when a party submits an objection and proves that:

- 1 due to irregularities in the procedure, the party was not able to present its means of defense or
- 2 the summons, lawsuit or the decision for initiation of the procedure were not delivered to the parties personally, or in case there was no attempt for personal delivery at all, unless the party has got involved in the court discussion concerning the main matter in the first-instance proceedings in any way or
- 3 the party was not given enough time to prepare the defense from the moment of delivery of the lawsuit until the hearing is scheduled.

Furthermore, in respect of enforcement of the decisions of the European Court of Human Rights in the Republic of North Macedonia, the procedure for enforcement of the decisions of the European Court of Human Rights is regulated with the Law on Enforcement of the Decisions of the European Court of Human Rights, adopted upon the cases against the Republic of Macedonia, as well as other issues concerning the enforcement of the decisions of the European Court of Human Rights.

When it comes to arbitral awards, it is important to point out that the rules which regulate the procedure for the recognition of foreign judicial decisions under the PILA are in correlation with the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.



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# Malta

## Overview of the procedure

In Malta, the procedure applicable to the enforcement of foreign judgements varies depending on whether the State of origin is a member of the European Union (“**EU**”) or not. To be enforceable, non-EU judgments must follow the procedure laid down by the Maltese Code of Organization and Civil Procedure (Chapter 12 of the laws of Malta). The enforcement of EU judgments is subject to the procedures set forth in EU Regulation No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“**Brussels I bis**”).

In either case, an application with the First Hall of the Civil Court in Malta must be filed. The application must be accompanied by certain documents, which vary according to the EU/non-EU nature of the judgment.

## Formal Requirements

### Enforcement of non-EU judgements

#### Non-EU judgments may be enforced in Malta provided:

- A** they have been delivered by a court of competent jurisdiction; and
- B** the foreign judgment is final, i.e., not liable to an appeal.

#### Non-EU judgements will not be enforceable in Malta where they:

- 1** may be set aside on the basis of re-trial;
- 2** were entered in default of the defendant, and the parties were not contumacious according to the laws of the State of origin.
- 3** are against public policy or the internal public laws of Malta.

#### Applications for the recognition of non-EU judgments must be accompanied by the following documents:

- I** a certified copy of the original judgement;
- II** a certified translation of the original judgement into Maltese or English, and
- III** a certificate confirming that there is no appeal pending against the foreign judgment.

### Enforcement EU judgements

Pursuant to Brussels I bis, EU judgements cannot be provisional, including protective measures, if entered by the foreign court without the defendant having been summoned to appear. However, this does not apply if the judgement has been served on the defendant prior to the request for enforcement.

Also, EU judgments entered on the following matters are excluded from the scope of Brussels I bis and may not therefore be enforced pursuant to its provisions:

- the status or legal capacity of natural persons
- rights in property arising from a matrimonial relationship or any similar arrangement.
- bankruptcy or the winding up of companies
- social security
- arbitration
- maintenance obligations and
- wills and succession

From the above it follows that a major difference between the enforcement of non-EU and EU judgements is that the former must be final. Conversely, Brussels I bis allows enforcement of non-final judgements except where the defendant was not summoned to appear (see i) above). However, the enforcement proceedings in Malta may be suspended where the enforceability of the judgement is suspended in the Member State of origin.

Applications for enforcement of EU judgments must be accompanied by the following documents:

- I a certified copy of the original judgement;
- II a certified translation of the original judgement into Maltese or English, and
- III a certificate issued by the State of origin containing
  - A certification that the judgement is enforceable.

- An extract of the judgement
- Information as to the recoverable costs of the proceedings and the calculation of interest

## Competent Court

The Maltese Courts have jurisdiction to hear and decide on cases of enforcement and recognition of foreign judgements in Malta where there exists a link between the foreign judgement and Malta, for example the debtor is a company registered in Malta. However, one must take note of the particular jurisdiction applicable with respect to particular matters, as set out by the Brussels I Bis. These are particularly applicable in matters relating to insurance, consumer contracts, individual contracts of employment. Furthermore, the Brussels I Bis establishes exclusive jurisdiction for judgements which have a particular object. In these cases, one must follow the rules established by the Brussels I Bis to determine whether the Maltese Courts would have jurisdiction or not.

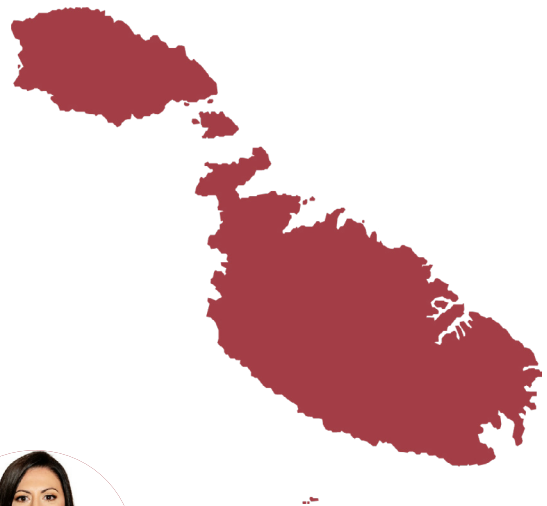


## Enforcement of British judgements

The Maltese Courts have jurisdiction to hear and decide on cases of enforcement and recognition of foreign judgements in Malta where there exists a link between the foreign judgement and Malta, for example the debtor is a company registered in Malta. However, one must take note of the particular jurisdiction applicable with respect to particular matters, as set out by the Brussels I Bis. These are particularly applicable in matters relating to insurance, consumer contracts, individual contracts of employment. Furthermore, the Brussels I Bis establishes exclusive jurisdiction for judgements which have a particular object. In these cases, one must follow the rules established by the Brussels I Bis to determine whether the Maltese Courts would have jurisdiction or not.

## Costs estimate

The court fees to file an application in the First Hall of the Civil Court in Malta, to have a judgement recognized and enforced, usually do not exceed EUR 200. However, this amount varies on a case-by-case basis, and does not include the legal fees.



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# Norway

## Overview of the procedure

In Norway the general rule is that foreign civil judgements are not legally effective in Norway, cf. Norwegian Disputes Act § 19-16. Exceptions to this rule may apply under Norwegian law, by virtue of an agreement between the parties and pursuant to International conventions, such as Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the “**Lugano Convention**”).

## Formal Requirements

The Lugano Convention, of which Norway is a party, lays down rules for the recognition and enforcement of court judgments entered by a signatory State. Articles 34 and 35 list a number of objections that may be relied upon to challenge the recognition and enforcement of foreign judgments, including judgments manifestly contrary to public policy in the State where recognition is sought, where judgment was given in default of appearance or where the document which instituted the proceedings was not served in good time, where the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State where recognition is sought. Other limited exceptions are listed in articles 34 and 35 (cf. article 45).

Where a foreign judgment falls outside the scope of the Lugano Convention or any other applicable treaty, enforcement may be sought under the provisions of the

Norwegian Disputes Act, Section § 19-16 (2). This also applies to the enforcement of British judgements because, as of April 2023, the United Kingdom's application to become a party to the Lugano Convention is still pending.

Other than judgements that do not fall within the scope of the Lugano Convention (including British judgments), pursuant to section 19-16 (2) of the Disputes Act foreign judgments must:

- have been entered in a civil matter;
- be final and legally binding in the State of origin;
- not contradict the Norwegian legal order;
- must not conflict with a judgment entered in Norway or in another State and
- the parties must have been properly served and granted a fair trial in the State of origin.

## Competent Court

- Norwegian district courts have jurisdiction over the recognition and enforcement of foreign judgments.
- Applications for enforcement need to be made at the defendant's habitual location e.g., the defendant's domicile.
- Applications and any supporting documents and information must be submitted to the correct district court.

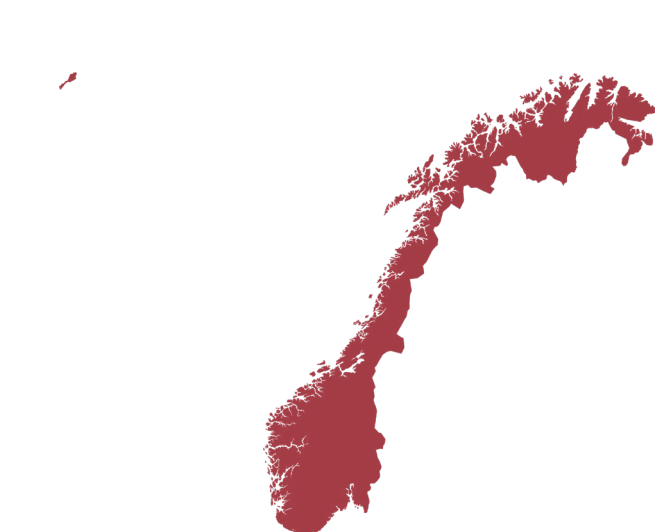
## Length of process

- Foreign judgments may be enforced in Norway where they are also equally enforceable in the State of origin.
- The length of process depends on a variety of factors, including the complexity of the case, the workload of the court, and debtor's cooperation.
- The procedure can take anywhere from two weeks to a year or more.

## Costs estimate

- Court fees: Fees for an application for enforcement are 2.1 times the court fee, with an additional 2 times the court fee currently at 1 243 NOK when enforcement has been carried out.
- Translation fees.
- Legal fees: It may be wise to seek legal advice, as the Norwegian legal system can be complex.
- Litigation costs in Norway are comparably higher than in other European countries due to the strict application of the principles of orality and immediacy, which results in long oral hearings.

The above contains a summary of some of the key rules and procedures applicable to the enforcement of foreign judgments in Norway. Exceptions and deviations from those general rules may arise during the enforcement process. , Therefore, seeking advice from a Norwegian legal counsel before taking any steps to enforce a foreign judgment in Norway is strongly recommended.



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# Poland

## Overview of the procedure

### Recognition and enforcement of foreign judgements under Polish law: general rule

In Poland the general rule is that foreign judgments **in a civil case are generally recognizable and enforceable**. The legal basis for recognition and enforcement depends on whether the judgment was entered by a European Union (“**EU**”) or non-EU State. Following recognition, foreign judgments in civil cases **acquire the same status as judgments entered by a Polish court**.

## Formal Requirements

### EU judgements

EU judgments **are recognized automatically** across the European Union **without any special procedure (*exequatur*)**. EU Member States are required to treat foreign judgments entered by another Member State as domestic judgments. Foreign judgments automatically constitute an enforcement title in Poland (article 115314 of Polish Civil Procedure), without the need for an enforceability clause, that is a declaration of enforcement passed by a Polish Court.

Applicants seeking to enforce an EU judgement must submit the following documents:

- **a certificate issued by the State of origin** confirming that the judgment was entered in a civil case and is recognized

or enforceable (article 53 of Regulation EU 1215/2012 on jurisdiction and the recognition and enforcement of judgement in civil and commercial matters and Appendix no. I and II, “**Brussels I bis**”)

- **an official translation** of the judgment and the **certificate** (if these are in a language other than Polish).

The respondent may object to the recognition or enforcement of a foreign judgment by relying on any of the objection grounds listed in various EU regulations, including articles 45 and 46 of Brussels I bis.

The Polish Regional Courts (*sąd okręgowy*) have jurisdiction to hear applications for recognition of foreign judgments, which attract a 300 PLN fee.

### Non-EU judgements

#### Lugano Convention

Under the Lugano Convention foreign judgments:

- shall be recognized **without any special procedure**,
- shall be enforced in another State bound by this Convention where, on the application of any interested party, **they been declared enforceable**.



Foreign judgments will not be recognized or enforced if any of the grounds for objection provided in the Lugano Convention applies.

Applications for recognition of foreign judgments under the Lugano Convention fall under the jurisdiction of the Polish Regional Courts (see Appendix no. II).

Applications for recognition or enforcement must be accompanied by the following documents:

- a copy of the judgment which satisfies the required conditions to establish its authenticity,
- a certificate confirming that the judgment is recognized or enforceable (Article 54 and 58 of the Lugano Convention and Annex V)

### **Bilateral agreements**

A number of bilateral agreements provide special mutual rules for the recognition and enforcement of foreign judgments.

### **Polish Civil Procedure Code (PCPC)**

Judgments entered in a non-EU member state excluded from the Lugano Convention or from agreements, may be recognized and enforced according to the PCPC.

As a rule, this type of foreign judgments in civil matters:

- are recognizable by law unless any of the objection for recognition listed in article 1146 PCPC applies (article 1145 PCPC).
- **become enforceable titles after a declaration of enforcement**

**has been entered by a Polish court.** The Polish court will issue a declaration of enforceability provided the judgment is enforceable in the State of origin and none of the objections specified in Article 1146 § 1 and 2 PCPC applies.

The Polish Regional Courts (*sąd okręgowy*) have jurisdiction to hear applications for recognition of foreign judgments, which attract a 300 PLN fee.

Applications for recognition must be accompanied by:

- an authenticated copy of the foreign judgment; a document certifying that the judgment is final (i.e., non-appealable) unless it is evident from the content of the judgment that it is final and not subject to appeal;
- a certified translation into Polish of the documents referred to above, and
- for enforcement purposes, a document confirming that the foreign judgment is enforceable in the State of origin unless enforceability is evident from the content of the judgment or the laws of the State of origin.



## Competent Court

The table below shows the laws applicable to the recognition and enforcement of foreign judgments in Poland:

Judgment country of origin	Applicable law
Denmark, Iceland, Norway, Switzerland	Lugano Convention
EU Member State	Regulation (EU) No 1215/2012 of the European Parliament and of the council of 12 December 2012 except for judgments entered in particular civil cases, for which other Regulations apply i.e.: insolvency proceedings, matrimonial matters and the matters of parental responsibility, wills and succession.
Non-EU State	(A) Special bilateral agreements (i.e., Ukraine), or (B) the Polish Civil Procedure Code - if there is no bilateral agreements
United Kingdom	(A) Pre-Brexit: see above, EU Member State. (B) Post-Brexit: Polish Civil Procedure Code
United States	Polish Civil Procedure Code
New York Convention signatories' arbitral awards	Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York on 10 June 1958.



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# Serbia

## Overview of the procedure

In the Republic of Serbia, the Law on Resolving Conflicts of Law with Regulations of Other Countries, (the “**Law**”) provides that foreign judgments may be enforced in Serbia only if recognized first by a Serbian competent court. Claimants seeking to have a foreign judgment recognized and enforced in Serbia face certain problems, including reciprocity (which means that Serbian judgments must also be enforceable in the State of origin) and the difficulty for non-residents to open a bank account in Serbia as a result of banking procedures (see below).

## Formal Requirements

Applications for the commencement of enforcement proceedings, must be submitted with the Serbian competent court, giving full particulars about the debtor and the debt. An original or certified copy of the final foreign judgment must also accompany the application. In commercial cases Serbian courts require applicant foreign entities to provide details of their non-resident bank account opened in Serbia. To this end, anti-money laundering procedures and other bank KYC formalities require significant effort from foreign legal entities, as banks need to verify the complete corporate structure of companies to establish the beneficial owner, which may be time-consuming.

## Competent Court

Pursuant to the Law foreign judgments may be recognized in Serbia provided that evidence is submitted showing that the foreign judgment is final in the State of origin, having been entered by a foreign court of competent jurisdiction.

The Law allows Serbian courts to refuse recognition on the following grounds: i) if the defendant was unable to take part in the proceedings, ii). where there is a final previous ruling entered by a Serbian court over the same matter; iii) where a Serbian court has exclusive jurisdiction over the relevant dispute, or iv) where enforcement of the foreign judgment would result in a violation of the public order of Serbia.

Finally, reference must also be made to reciprocity, where foreign judgments will not be recognized in Serbia if Serbian judgments are not recognizable and enforceable in the State of origin. Reciprocity may be formal or factual. Formal reciprocity means that Serbia has in place bilateral international treaties with other States in accordance with which the contracting states agree to mutually recognize their respective court judgments. Factual reciprocity, on the other hand, means that, even where there is no treaty, the courts in other States recognize judgments entered by the Serbian courts as a matter of fact, not as a result of an international treaty or convention. Reciprocity is assumed under

the Law unless proven otherwise. In case of doubt, reciprocity is decided by the Serbian Ministry of Justice. In practice, this is the main obstacle for the recognition of foreign judgments in Serbia resulting from the wide variety of bilateral treaties. Even where an international treaty does exist, it might not apply to all types of disputes. For example, a treaty may lay down provisions for the recognition and enforcement of civil law matters but exclude (expressly or by implication) e commercial law matters or vice versa.

The Serbian Ministry of Justice maintains an unofficial list of States with which reciprocity applies. In practice, Serbian courts invariably verify reciprocity in each case and also seek the Ministry of Justice's opinion. Therefore, there is a risk that, even though there may be no general impediments for the recognition of a foreign judgement enforcement is ultimately denied by a Serbian court on the grounds of lack of reciprocity.

Once recognized, foreign judgments are enforceable in Serbia, as they have the same legal effects as a final domestic court ruling. Also, the same enforcement procedures apply. In practice, this means that the applicant will effectively enforce the Serbian ruling by which the foreign decision is recognized.

Enforcement proceedings are conducted before the Serbian competent court, which refers the matter to private bailiffs. The success of the enforcement largely depends on the existence of debtor's assets in Serbia. To this end, it is important that bailiffs enquire with all state authorities in search of bank accounts, real estate property, personal property or other assets of the debtor.

## Length of process

Provided there are enough assets of the debtor located in Serbia, takes several months.



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# Slovakia

In Slovakia foreign judgments entered in the State of origin must be previously recognized in order to be enforceable, or are simply recognized and enforceable as domestic Slovak judgments.

The below table shows an outline of the laws applicable to and the conditions for the recognition and enforcement of foreign judgments:

State of origin	Applicable law	Principles
<p><b>EU member states</b> (except for Denmark)</p>	<p>EU Regulations for the judgments in proceedings commenced after the effective date and in matters falling within their scope, such as:</p> <ul style="list-style-type: none"> <li>➤ civil and commercial matters: Brussels Ib No. 1215/2012 (after 10 January 2015)</li> <li>➤ family and parental: Brussels IIb No. 2019/1111 (after 1 August 2022)</li> <li>➤ debt recovery: No. 1896/2006 European order for payment (after 12 December 2008)</li> <li>➤ insolvency: No. 2015/848 (after 26 June 2017)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Judgments are recognized and enforceable</li> </ul>
<p><b>Non-EU member states</b></p>	<ol style="list-style-type: none"> <li>1. International treaties apply including: <ul style="list-style-type: none"> <li>○ civil and commercial matters: the Lugano Convention (2007), the Hague Convention of Choice of Court Agreements (2005)</li> <li>○ family matters: the Hague Convention on the Recognition of Divorces and Legal Separations (1970)</li> </ul> </li> <li>2. Bilateral agreements on legal assistance</li> <li>3. Slovak Private and Procedural International Law Act No. 97/1963 Coll. ("<i>International Law Act</i>")</li> </ol>	<ul style="list-style-type: none"> <li>➤ Judgments are recognized and enforceable *</li> <li>➤ Judgments in matters of marital status and legal capacity must be recognized in order to be enforceable *</li> <li>➤ No reciprocity required, except for insolvency.</li> </ul> <p>* If an international treaty or bilateral agreement does not stipulate otherwise.</p>
<p><b>United Kingdom (UK)</b></p>	<ul style="list-style-type: none"> <li>➤ Pre-Brexit: judgments in proceedings commenced before 31 December 2020</li> <li>➤ Post-Brexit: judgments in proceedings commenced after 1 January 2021</li> </ul>	<ul style="list-style-type: none"> <li>➤ See above EU member States.</li> <li>➤ See Non-EU member states; Lugano (2007) convention does not apply to the UK.</li> </ul>
<p><b>All states/ arbitral awards</b></p>	<ol style="list-style-type: none"> <li>1. International treaties, such as: <ul style="list-style-type: none"> <li>➤ New York Convention on Foreign Arbitral Awards (1958)</li> </ul> </li> <li>2. Bilateral agreements, such as: <ul style="list-style-type: none"> <li>➤ arbitration agreements between EU member states</li> </ul> </li> <li>3. Slovak Arbitration Procedure Act No. 244/2002 Coll. ("<i>Arbitration Procedure Act</i>")</li> </ol>	<ul style="list-style-type: none"> <li>➤ Arbitral awards are recognized and enforceable.</li> <li>➤ According to EU Court of Justice case law Enforcement of arbitral awards within EU member states is not allowed under intra-EU arbitration agreements between EU member states</li> </ul>

Summary of the procedures for the recognition and enforcement of judgments:

Slovak law	International Law Act	Enforcement Procedure Act No. 233/1995 Coll.	Arbitration Procedure Act
<b>Title</b>	<ul style="list-style-type: none"> <li>Judgments</li> <li>Decisions, agreements, settlements approved by authorities and notarial deeds in matters decided by a court in Slovakia</li> </ul>		<ul style="list-style-type: none"> <li>Arbitral award issued in a foreign country</li> </ul>
<b>Overview</b>	<p><b>1. Court must recognize the title, if at least one participant in the case is Slovak citizen:</b></p> <ul style="list-style-type: none"> <li>i) family status, e.g., divorce, parent-child relationship;</li> <li>ii) legal capacity.</li> </ul>	1. The court examines the title and issues an order for enforcement by a bailiff	
	<p><b>2. The Defendant / debtor may object; the court must suspend the recognition proceedings where there are grounds for refusal under applicable law, such as:</b></p> <ul style="list-style-type: none"> <li>exclusive jurisdiction of Slovak courts</li> <li>the judgment is contrary to public policy of Slovakia.</li> <li>the defendant was not served with the lawsuit and was unable to submit a defense.</li> <li>the foreign judgment is irreconcilable with a judgment between the same parties entered in Slovakia.</li> </ul>		<ul style="list-style-type: none"> <li>the matter cannot be resolved by arbitration according to Slovak law.</li> <li>the arbitral award is contrary to public policy of Slovakia.</li> <li>the defendant was not allowed to participate in arbitration proceedings.</li> <li>the matter is not governed by or is outside the scope of the arbitration agreement</li> </ul>
<b>Formal requirements</b>	<ul style="list-style-type: none"> <li><b>Original or notarized copy of judgment **</b></li> <li><b>Certificate by the court of the State of origin that the judgment is enforceable</b></li> </ul>		<ul style="list-style-type: none"> <li><b>Original or notarized copy of the arbitration award and arbitration agreement **</b></li> </ul>
	** Depending on the state of origin, legalization or apostille of document may be required.		
	<ul style="list-style-type: none"> <li>Evidence that the defendant's right of defense was not breached</li> </ul>	n/a	n/a
<ul style="list-style-type: none"> <li>court fee EUR 66 / EUR 33 if electronic application</li> </ul>	<ul style="list-style-type: none"> <li>court fee EUR 16.50</li> <li>no fee in parental monetary obligation</li> </ul>		



Slovak law	International Law Act	Enforcement Procedure Act No. 233/1995 Coll.	Arbitration Procedure Act
Formal requirements	<ul style="list-style-type: none"> <li>➤ Original or notarized copy of judgment **</li> <li>➤ Certificate by the court of the State of origin that the judgment is enforceable</li> </ul>		<ul style="list-style-type: none"> <li>➤ Original or notarized copy of the arbitration award and arbitration agreement **</li> </ul>
	** Depending on the state of origin, legalization or apostille of document may be required.		
	<ul style="list-style-type: none"> <li>➤ Evidence that the defendant's right of defense was not breached</li> </ul>	n/a	n/a
	<ul style="list-style-type: none"> <li>➤ court fee EUR 66 / EUR 33 if electronic application</li> </ul>	<ul style="list-style-type: none"> <li>➤ court fee EUR 16.50</li> <li>➤ no fee in parental monetary obligation</li> </ul>	
Competent court information	<ul style="list-style-type: none"> <li>➤ District court of the debtor's domicile – enforcement of monetary obligation</li> </ul>		
	<ul style="list-style-type: none"> <li>➤ District court of the child's domicile – enforcement of parental non-monetary obligation</li> </ul>	The bailiff is appointed randomly by the court using a technical system.	
	<ul style="list-style-type: none"> <li>➤ Regional court Bratislava - recognition of judgments</li> </ul>		
Length of process	<ul style="list-style-type: none"> <li>➤ 24 hours for immediate measures related to child.</li> <li>➤ average 3 months in family status matters</li> <li>➤ average 6 - 12 months, if appealed</li> </ul>	<ul style="list-style-type: none"> <li>➤ 15 days to issue an order for enforcement.</li> <li>➤ average 3 – 6 months, if not appealed</li> <li>➤ average 6 – 12 months, if appealed</li> <li>➤ the proceedings are set aside, if after 30 months (legal entity) or 5 years (natural person) no property of the debtor is found</li> </ul>	<ul style="list-style-type: none"> <li>➤ 24 hours for immediate measures related to child.</li> <li>➤ average 3 months in family status matters</li> <li>➤ average 6 - 12 months, if appealed</li> </ul>
Costs estimate	<ul style="list-style-type: none"> <li>➤ translation and notary fees</li> <li>➤ local attorney fees, if applicable</li> </ul>	<ul style="list-style-type: none"> <li>➤ bailiff's fee max. 24% of enforced amount up to EUR 33,000</li> <li>➤ translation and notary fees</li> </ul>	



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# Slovenia

## Overview of the procedure

In Slovenia foreign judgments in civil and commercial matters may be recognized and enforced and acquire the same status as a judgement entered by Slovenian courts. However, different rules apply to the procedure for recognition and enforcement of foreign judgments entered in a member State of the European Union (“EU”) and in non-EU States.

## Enforcement of EU judgements

Since the Republic of Slovenia became a member of the EU on 1 May 2004, the recognition and enforcement of EU judgments entered in civil and commercial matters is dealt with under different Regulations of the European Parliament and of the council, depending on the date of the judgment and on the subject-matter of the case.

As a general rule EU judgements given in EU member States are recognizable and enforceable in other member States without any special procedure or without any declaration of enforceability being required. Therefore, Slovenian courts are required to treat EU judgements as domestic judgements without any special recognition or enforcement procedure.

## Formal requirements and competent court

Judgements enforceable in EU Member States operate directly as enforcement titles in Slovenia and shall be before Slovenian district courts enforced under the same conditions as Slovenian judgments. A party who wishes to enforce a foreign judgment given in an EU member State in Slovenia must produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity, including a certificate based on the relevant EU regulation. In principle, a translation of the judgement is not necessary, but Slovenian courts may require a translation or a transliteration of the contents of the certificate.

Applications for recognition or enforcement of a foreign judgement may be refused on the basis of any of the grounds listed in various EU regulations. An application to refuse recognition, to rule that there are no grounds for refusing recognition, or to refuse to enforce an EU Member State judgment shall be brought before Slovenian district court. For such application an application fee of 16,00 EUR is charged.

However, the above rules do not apply to judgements given in an EU member State enforceable by a European Enforcement Order or European Payment order.



## Enforcement of non-EU judgements

Recognition and enforcement of judgements entered in EU member States which are not subject to the above-mentioned EU Regulations, including non-EU judgments and British judgements entered after 31 December 2020, are subject to the provisions of the Slovenian Private International Law and Procedure Act, except where a special bilateral agreement or other convention applies to the case at hand.

The procedure for the recognition and enforcement of judgements entered in Denmark, Iceland, Norway or Switzerland is to be found in the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the “**Lugano Convention**”).

### Formal requirements and competent court

In order for a decision on recognition or enforcement of foreign judgment (with the exception of judgements recognized under Lugano Convention) to be recognized or enforced, two positive preconditions must be met: the applicant must provide a certified translation of the foreign judgment into the language officially used by the court, and a certificate of its final validity. The other prerequisites are of a negative nature (i.e., conflict with the public order, a Slovenian court has already given a final decision in the same case, no reciprocity), some of which are to be observed by the court of its own motion, others only upon the objection of the opposing party.

Upon objection of the person against whom the foreign judgement was issued

an application for a decision on recognition or enforcement of foreign judgement could be rejected if there are statutory grounds for refusal.

An application for recognition of a foreign court's decision or on an application for a declaration that a decision is enforceable, shall be brought before district court. For such application an application fee of 16,00 EUR is charged.

Judgments given in a state bound by the Lugano Convention shall be recognized in the other contracting states without any special procedure being required for recognition.

Court judgements given in a state that is a party to the Lugano Convention may be enforced after obtaining a declaration of enforceability by a Slovenian Court following an application by the interested party.



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# Spain

## Overview of the procedure

The recognition and enforcement of judgments rendered in the EU is subject to European law, in particular in accordance with the provisions of 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 (hereinafter "RBIbis").

The RBIbis is also the applicable law in the United Kingdom's transitional regime for the event under the terms of the agreement on the exit of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. This regime is applicable to judgments rendered from 1 February 2020 until 31 December 2020.

Such RBIbis simplifies the recognition and enforcement procedure of the judgements issued of the Member States, establishing a direct procedure.

So, with regard to the recognition procedure, in accordance of the article 36 et seq., is foreseen an automatic recognition in the Member States in case of the resolution has been issued by other Member State.

For this purpose, a party who wishes to invoke in a Member State a judgment given in another Member State shall produce a copy of the judgment which satisfies

the conditions necessary to establish its authenticity and the certificate issues of the court of origin by the form set out in Annex I.

Notwithstanding the above, the regulation foresees a number of cautions, allowing to the Member States addressed that refusal therecognition provide that a Party solicitates it. The cases in which when the recognition of a judgment shall be refused:

- if such recognition is manifestly contrary to public policy (order public) in the Member State addressed;
- where the judgment was given in default of appearance, if the defendant was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant failed to commence proceedings to challenge the judgment when it was possible for him to do so;
- if the judgment is irreconcilable with a judgment given between the same parties in the Member State addressed;
- if the judgment is irreconcilable with an earlier judgment given in another Member State or in a third State involving the same cause of action and between the same parties, provided that the earlier judgment fulfils the

conditions necessary for its recognition in the Member State addressed; or

- if the judgment conflicts with the exclusive jurisdiction and the special jurisdiction (insurance contracts, consumer contracts and contracts of employment).

On the other hand, regarding to the enforcement procedure, the judgments issued for a Member States shall be automatically enforceable in the other Member States without any declaration of enforceability being required.

For this purpose, the party seeking the enforcement, shall provide the competent enforcement authority with a copy of the judgment which satisfies the conditions necessary to establish its authenticity and the certificate issued by the court of origin by the form set out in Annex I. In the form shall be enclosed the extract from the resolution and, if applicable, the details about the cost of the procedure and calculation of interest.

Likewise, in this case the Regulation also foresees cautions for the possible refusal of the enforcement when a party solicits it. The cases that allowed to the courts refuse the enforcement are the established for the refusal of the recognition.

## Recognition and enforcement procedure

A judgement issued by the Third States courts, or by UK courts as from January, 1 2021, is subject to the 1961 Hague Convention as regards recognition and enforcement in Spain.

The application of the Convention means that the requirement of diplomatic or consular legalization of foreign public documents is abolished, establishing instead a procedure to ensure the authenticity of the document called "**apostille**".

The apostille procedure is regulated in the XII Convention abolishing the requirement of legalization for foreign public documents, dated October 5, 1961, which was ratified by Spain on September 25, 1978.

However, in the case of not proving the authenticity of the document by means of the apostille, it is possible to legalize it by the traditional way, that is, through diplomatic or consular channels.

Subsequently, and already in Spain, it will be necessary to carry out the procedure provided for the recognition and enforcement of foreign resolutions called "**exequatur**", regulated in Articles 41 et seq. of Law 29/2015, of July 30, on international legal cooperation in civil matters (hereinafter, "LCoop").

The exequatur procedure consists of two phases.

The first one provides for the recognition of the resolution, in accordance with the provisions of Articles 44 to 49 LCoop, in which it is analyzed whether the resolution complies with the requirements demanded by law. It is mandatory that, in order for a judicial decision to be recognized, it must be final.

However, it is possible that recognition may not take place if any of the grounds for refusal of recognition set out in Article 46 L Coop applies:

- 1 When the judicial decision in question is contrary to public order.
- 2 When it has been issued in violation of the rights of defense. In the event that the decision was rendered in default of appearance, it is understood that the rights of defense have been infringed when the defendant was not summoned in sufficient time to enable him to defend himself.
- 3 When the foreign decision is pronounced on matters in respect of which, in Spain, only the Spanish authorities have jurisdiction. With respect to the rest of the matters, it will be cause for refusal of recognition when the competence of the judge a quo does not obey a reasonable connection.
- 4 When it is irreconcilable with a decision issued in Spain.
- 5 When it is irreconcilable with a decision previously rendered in another State.
- 6 When there is previous litigation pending in Spain between the same parties and with the same subject matter.

The second phase, in accordance with the provisions of Articles 50 and 51 LCoop, provides that enforcement shall be carried out in accordance with the provisions of Law 1/2000, of January 7, 2000, on Civil Procedure (hereinafter, "LEC").

The enforcement procedure, regulated by Articles 538 et seq. LEC, is initiated by filing

an enforceable claim before the competent court, which in this case will be the one that heard the exequatur proceeding for the recognition of the foreign court decision.

Subsequently, after the Court has verified that the procedural requirements are met, it will issue a decision ordering enforcement, which will take the form of an order. The executed party may file a writ of opposition to the same alleging payment or compliance with the order of the resolution, which will also be resolved by means of an order.



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# Switzerland

## Overview of the procedure

### Legal basis of the foreign judgment

In Switzerland different legal frameworks and procedures apply depending on the origin and type of judgment the recognition and enforceability of which is sought.

- The Lugano Convention typically applies to judgments entered by a court of a European Union (“**EU**”) state;
- the Swiss Private International Law Act (“**PILA**”) applies to the recognition and enforcement of judgments given by a court in a third-party state (e.g., North Macedonia.); and
- the 1958 New York Convention applies to the enforcement of international arbitral awards.

### Foreign judgment entered in pecuniary and non-pecuniary claims

A further distinction needs to be drawn between the procedure for enforcing foreign judgments entered in pecuniary (or monetary) cases ((e.g., debt claims) and in non-pecuniary proceedings (e.g., an injunction to use a trademark).

The Swiss Debt Enforcement and Bankruptcy Act (“**DEBA**”) applies to foreign judgments entered in pecuniary claims, whilst foreign judgments entered in non-pecuniary disputes

must be enforced in accordance with the Swiss Code of Civil Procedure (“**CCP**”).

No separate recognition proceedings (exequatur) need to be followed.

Foreign judgments that fall within the scope of the Lugano convention are automatically recognized according to the latest case law of the Swiss Federal Court.

### Enforcement of pecuniary claims if the debtor is domiciled or has its registered office abroad/in Switzerland

Yet a further distinction must be made based on the location of the debtor’s domicile or registered office, as the case may be.

If the debtor is domiciled abroad but there are assets located in Switzerland, the creditor may apply for an attachment over the debtor’s assets in Switzerland.

An attachment order is usually issued by the attachment court within 24 hours.

Applications for an attachment order must state the legal basis for the attachment (usually the foreign judgment if it is enforceable) and designate at least one item of property of the debtor, which may be a bank account, a debt recoverable from a supplier, real estate, securities, IP rights, etc.).

The applicant must provide adequate evidence of the above requirements, including particulars of the debtor's assets (e.g., bank account number).

Provided the applicant is able to satisfy the Swiss court that all the above requirements have been met, the court will issue an attachment order.

The order will be enforced immediately by the state debt collection office.

Once the attachment has been granted, an application for enforcement must be submitted to the debt collection office no later than 10 days.

If the debtor is domiciled or has its registered office in Switzerland, the applicant may also start debt collection proceedings directly (i.e., without an attachment).

In that case, the debt collection office issues a summons to pay. The debtor may file an objection against the summons to pay with or without a basis for doing so.

If the debtor has raised an objection, the creditor must file an application to the court for setting aside the objection based on the foreign judgment, which is the title for setting aside the objection.

If the debtor's objection is set aside, different enforcement proceedings of the pecuniary claim apply to individual and corporate debtors.

In the case of natural persons, the debtor's assets will be seized. In the case of legal persons, the enforcement results in bankruptcy proceedings, but if the debtor is domiciled or has its registered office abroad, and in the case of an attachment,

enforcement is also carried out by seizing the debtor's assets.

### **Enforcement of non-pecuniary claims if the debtor is domiciled or has its registered office abroad/Switzerland**

The enforcement of judgments for non-pecuniary claims requires an application for enforcement, which must be submitted directly to the relevant enforcement court. Protective measures may also be applied for whilst enforcement proceedings are ongoing. Protective measures are ordered immediately.

### **Formal Requirements**

The formal requirements vary depending on the applicable legal framework:

- Lugano Convention: an original certificate issued in accordance with Annex V of the Lugano Convention is required (a translation is not mandatory);
- PILA: Apostilled and translated judgement is required (in the original);
- New York Convention: an original or certified copy of the award and arbitration agreement is required, including a translation as the case may be.

### **Competent Court**

Jurisdiction is allocated to the enforcement court or the attachment court.

Territorially, jurisdiction depends on the location of the debtor's domiciled or registered office. If the debtor does not have a domicile or registered office in Switzerland,

jurisdiction is allocated to the court of the place where enforcement takes place or where the debtor's assets are located.

## Length of process

Attachments in the context of pecuniary claim) and protective measures are usually granted within 24 hours, provided all applicable requirements are satisfied. However, the ensuing enforcement procedure may be time-consuming and take up to 2- 3 years.

## Cost estimate

In Switzerland, court costs are regularly calculated on the basis of the amount in dispute.

The costs of enforcing pecuniary claims amount to a maximum of CHF 4,000.00 for an attachment, plus further decision fees, which range from 12,000.00 to CHF 15,000.00 for the entire enforcement procedure.

The enforcement of non-pecuniary claims, on the other hand, is subject to cantonal tariffs, which are somewhat higher and are based on cantonal law.



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