



Warwick Legal Network

---

**HOW TO ENFORCE A JUDGMENT  
IN...**

**A PRACTICAL HANDBOOK**

---

This practical guide provides a general overlook into the main legal and administrative aspects regarding the enforcement of judgments in different countries worldwide.

Warwick Legal Network is an international association of independent law firms with offices in over 30 jurisdictions.

## WITH THE PARTICIPATION OF...

BUFETE MAÑÁ•KRIER•ELVIRA  
ABOGADOS ASOCIADOS

ZUMTOBEL+KRONBERGER + RECHTSANWÄLTE OG

everest  
advocaten • avocats • attorneys

LEGALIS  
advocaten

SQUARRA  
& PARTNERS

W ESTUDIO WILLA  
Abogados / Consultores Tributarios

ebI miller  
rosenfalck  
european business lawyers

MIKINSKI & PARTNERS  
LAW OFFICE

ilo INDIA LAW OFFICES LLP

PAP  
LYC  
& CO

## **“HOW TO ENFORCE A JUDGMENT IN...”**

### **INDEX**

- 1) Argentina
- 2) Austria
- 3) Belgium
- 4) Bulgaria
- 5) Cyprus
- 6) England
- 7) Hungary
- 8) India
- 9) Spain



## **CHAPTER 1**

### **HOW TO ENFORCE A JUDGMENT IN ARGENTINA**

**(A) What is the applicable law?**

- (a) Domestic judgments: Civil and Commercial Code of the Nation
- (b) Foreign judgments: National Constitution and International Treaties

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Country-by-country
- Point-to-point treaties
- Model treaties on the handover of surveillance of offenders on parole or parole
- Minimum rules for the treatment of prisoners
- United Nations rules for the protection of minors deprived of liberty

**(C) What types of judgments in commercial matters are enforceable?**

Those that have reached all jurisdictions and where there are no more appeal instances.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

Always. There are no trials without the lawyers.

**(E) Is a security for costs needed?**

No, this is not needed.

**(F) Which court is the competent court?**

The court that corresponds to the matter to be judged and to the territorial jurisdiction.

**(G) Can the debtor oppose to the enforcement?**

Yes, but they will remain rebellious, and the execution will be carried out anyway; without their participation.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes absolutely, the precautionary measures are immediate.

**(I) How do you secure the effectiveness of an immovable property?**

A previous domain report is requested and confirming the ownership of the debtor, that asset is frozen.

**(J) Is there a Bailiff in your jurisdiction?**

**(K)** No

**(L) Is the judgment creditor entitled to interest? If so, on what basis is calculated?**

Yes, interest is always added to the loan rate of the National Bank.

Reference contact in Argentina:

**Andres Willa**

Attorney-at-law

Partner

at **Estudio Willa**

[awilla@estudiowilla.com](mailto:awilla@estudiowilla.com)



## **CHAPTER 2**

### **HOW TO ENFORCE A JUDGMENT IN AUSTRIA**

**(A) What is the applicable law?**

- (a) Domestic judgments: Enforcement Regulations
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary, Act 29/2015 30 July on international legal cooperation in civil matters.

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties
- New York Convention

**(C) What types of judgments in commercial matters are enforceable?**

In principle, all judgments are enforceable after the expiration of the time limit for appeal.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

In principle, there is no obligation to hire a lawyer. For a legal remedy there is a need for a lawyer.

**(E) Is a security for costs needed?**

Not needed, but if an administrator acts, his minimum remuneration must be paid in advance as well as the court fees.

**(F) Which court is the competent court?**

- (c) monetary claims, which are based on the movable property: general jurisdiction of the obligated party.
- (d) immovable property: District court in which the immovable property is located

**(G) Can the debtor oppose to the enforcement?**

The debtor has the right to file an appeal to the execution order within 14 days; the filing of the appeal does not suspend the execution of the granted execution.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, it is possible to obtain a block on an account based on a lien.

**(I) How do you secure the effectiveness of an immovable property?**

- Appointment of an administrator
- Note in the land registry

**(J) Is there a Bailiff in your jurisdiction?**

Yes, there are court bailiffs.

**(K) Can one freely choose the person of the bailiff?**

No, the specific person is ordered by the competent court. The enforcement/execution must be first granted by the judge. But the actual enforcement actions like attachment are not the responsibility of the judge or judicial officer, but of the enforcement bodies (bailiffs). The competent court is the District Court at the place of residence of the obligated party (or District court in which the immovable property is located).

**(L) How much does this cost?**

A fee must be paid at the beginning for the action of the court (and thus of the bailiff). The costs are claimed from the debtor.

**(M) In which field with they work?**

The Bailiff must execute the execution order at the place that is specified in the application for execution authorization. Their field of application is mainly the execution of movable property, eviction (for example of a flat) and the execution for restitution, but they are also used in the compulsory auction of real estate.

**(N) How do they work?**

The bailiff is allowed to search the flat of the debtor if it's necessary. There is also the possibility to instruct the opening of locked doors or locked boxes. If there is resistance, police assistance can be requested. The bailiff defines where the items are sold (on the internet, at the auction house, in the auction hall or at the place where the seized objects are located).

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, according to the legal or agreed interest rate.

Reference contact in Austria:

**Hanna Lemberger**

Trainee Lawyer

at **Zumtobel Kronberger Rechtsanwälte OG**

office @ [eulaw.at](mailto:eulaw.at)

+43 662 62 45 00





## **CHAPTER 3**

### **HOW TO ENFORCE A JUDGMENT IN BELGIUM**

**(A) What is the applicable law?**

- (a) Domestic judgments: Judicial code
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

**(C) What types of judgments in commercial matters are enforceable?**

All judgements are enforceable, in principle even provisionally enforceable.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

In principle a lawyer is not needed unless a collection of undisputed debts is initiated; a bailiff suffices.

**(E) Is a security for costs needed?**

No, this is not needed.

**(F) Which court is the competent court?**

Judge of seizures.

**(G) Can the debtor oppose to the enforcement?**

The debtor can ask the judge for the verdict not to be provisionally enforceable, but this is rarely adopted.

The debtor can oppose the enforcement (not the enforceability) at the judge of seizures.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, this is called a seizure with a third party.

**(I) How do you secure the effectiveness of an immovable property?**

The judgment or the mortgage registration concerning an immovable property needs to be registered at the 'Office of Legal Certainty'.

**(J) Is there a Bailiff in your jurisdiction?**

Yes.

**(K) Can one freely choose the person of the bailiff?**

In principle yes, unless in some cases where a bailiff is appointed by the court (in most cases when you are granted free judicial proceedings). A bailiff only has territorial jurisdiction in the district where he has been appointed however.

**(L) How much does this cost?**

The bailiff will invoice his costs to the attorney or to the client. The costs made in light of a judicial assignment are provided for by law, but the bailiff can choose his tariffs when executing a non-judicial assignment (e.g., amicable recovery or making findings).

The costs must be borne by the debtor in principle (if he can be found and the costs can be recovered of course).

**(M) In which field with they work?**

They have a variety of competences: they serve writs of summons and judgements, can lay seizures, can be used to make findings which can be used as evidence in court, and which are extremely hard to disprove.

Another competence they have is the collection of undisputed commercial debts, which is a procedure in Belgium which can grant you an executable title without having to go to court.

**(N) How do they work?**

The bailiff is allowed to enter a person's home if he has an executable title. When the debtor does not give permission, he needs to be accompanied by a police officer. A locksmith can be used as well in case of forced entry. Locked furniture can also be opened, but the bailiff has an obligation to not make any unnecessary damage to the property.

The goods can be sold at a public place, online or even amicably (when the debtor sells the property himself and the profits go to the bailiff).

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, but the rate depends on the case at hand and what the judge decides. The legal interest rate is 1.50% in 2022, but the interest rate of for example commercial transactions is 8%.

**(P) The digital bailiff**

The bailiff has an option to serve documents digitally to an e-mail address which the counterparty chose for the digital serving of documents, or which he knows is an e-mail address used by the counterparty. This happens through a secure platform. In order for the serving to be done correctly, the receiving party needs to accept the document by using its digital passport (or that of its director) within 24 hours of the sending of the document. If this does not happen within this time period or if the receiving party explicitly refuses, the serving of the document will be deemed not to have happened and the bailiff will have to serve the document in the conventional way.

Reference contacts in Belgium:

**Sebastiaan Meeuwens**

Lawyer

at **Legalis Advocaten**

sebastiaan.meeuwens@legalis.be

+32 13 671201



**Evelien Pijfers**

Lawyer

at **Everest**

evelien.pijfers@everest-law.com

+32 (0) 33760200



## **CHAPTER 4**

### **HOW TO ENFORCE A JUDGMENT IN BULGARIA**

#### **(A) What is the applicable law?**

- (a) Domestic judgments: CIVIL PROCEDURE CODE (CPC)
- (b) Foreign judgments: CIVIL PROCEDURE CODE (CPC), PRIVATE INTERNATIONAL LAW CODE, Council Regulation (EC) No 44/2001, international treaties

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Convention 1968;
- 2005 Hague Convention on Choice of Agreements;
- 2007 Lugano Convention;
- Other bilateral treaties.

#### **(C) What types of judgments in commercial matters are enforceable?**

- (a) The effective court decisions, i.e. those that have not been appealed or those that have reached a court of last instance.
- (b) the suing decisions of the courts of appeal (second instance).
- (c) the decisions and rulings of the arbitrary courts and the concluded before them agreements on arbitrary cases.

#### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

The involvement of a lawyer is not always necessary to enforce a judgment. The law allows the parties' representatives by proxy to be:

1. the lawyers;
2. the parents, the children, or the spouse;
3. the legal-advisors or the other employees who have degree in law at the institutions, enterprises, legal persons or of the sole entrepreneur;
4. other persons, envisaged by a law.

#### **(E) Is a security for costs needed?**

No, this is not necessary.

#### **(F) Which court is the competent court?**

The court which has jurisdiction by kind and by location to hear the case.

**Regarding jurisdiction by kind** - all civil cases, except for those within the jurisdiction of the district court as a first instance, shall be under the jurisdiction of the regional court.

**Regarding jurisdiction by location** – The claim shall be filed at the court, within which area the permanent address or the seat of the defendant is located (this is the general jurisdiction by location). In view of

certain specificities about the personality of the debtor, the law also establishes a local jurisdiction other than the usual. In the case of property - the District Court in whose district the property is located shall have jurisdiction.

The request for the issuance of a writ of execution on the ground of the decisions of the courts usually shall be submitted before the court, which hear the case as a first instance.

The request for the issuance of a writ of execution on the ground of the decisions of the local arbitrary courts and the concluded before them agreements on arbitrary cases shall be submitted before the district court, within which region is the permanent address or registered office of the debtor.

**(G) Can the debtor oppose to the enforcement?**

Yes, the debtor may oppose the enforcement by claim, but this claim of the debtor may be founded only on facts which occurred after the end of the court investigation within the procedure, on which the execution ground was issued. This action does not suspend the enforcement unless the court orders a suspend at the request of the debtor.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, by protective (security) measures, which shall be allowed by the competent court.

**(I) How do you secure the effectiveness of an immovable property?**

By impose injunction on the property owned by the debtor by securing a future or pending claim.

**(J) Is there a Bailiff in your jurisdiction?**

Yes, there are State Bailiffs (SBs) and Private Bailiffs (PBs). The same deadlines apply to the SBs and the PBs, with the SBs acting at the level of the District Court and the PBs at the level of the Regional Court. SBs receives a salary from the state budget, while PBs do not receive money from the state, but are self-supporting, i.e., PBs is a free profession.

**(K) Can one freely choose the person of the bailiff?**

Only the local jurisdiction of the bailiff should be taken into account. So, the competent bailiff is those in whose district is located some of the following:

- the immovable property, on which enforcement is directed;
- the movable property, when the delivery of the movable property is to be effected by the debtor;
- the permanent or current address or debtor's seat.

Once the local jurisdiction has been taken into account, the creditor can choose the bailiff from the relevant district to initiate enforcement proceedings, i.e., whether it should be a SBs or a PBs. Usually the collection rate of PBs is higher than that of SBs.

**(L) How much does this cost?**

For the initiation of the enforcement proceedings, the claimant must pay fees in advance for the bailiff's

enforcement actions, which are subsequently charged to the debtor and added to the debtor's debt, or in other words they are collected by the debtor.

The costs of a private bailiff are statutorily defined in the Tariff of Fees and Costs to the Private Bailiffs Act, which specifies the amount of ordinary fees (for enforcement actions) and proportional fees where a monetary claim is involved (representing a percentage of the creditor's claim).

The costs of the state bailiff shall be determined in Article 53 of the Tariff of State Fees to be Collected by the Courts under the CIVIL PROCEDURE CODE.

**(M) In which field with they work?**

The bailiff's sphere of activity mainly includes the execution on movable property, immovable property (forced sale of immovable property at auction, entry to an estate, etc.), collection of monetary claims, etc.

**(N) How do they work?**

Regarding monetary claims, the bailiff has the right to freeze debtor's bank accounts, the debtor's salary or any amount that the debtor has to collect from a third party. The bailiff has the right to access the debtor's immovable property (home, hotel, or other property of the debtor), to inventory that property, if necessary - may appoint a caretaker (security) of that property. He may request police assistance if resisted. He is also entitled to inventory movable property owned by the debtor (cars, valuables, etc.).

The bailiff organizes and makes public sales - auctions of the seized (frozen) property and assets.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, if he has asked the court to award legal or agreed interest, if any, on the claim (principal). In this case, interest shall be added to the principal (main) claim upon judgment and shall accrue until final payment. The legal interest rate is equal to the base rate of the Bulgarian National Bank (BNB) for the period of delay, increased by 10 percentage points.

**Reference contact in Bulgaria:**

**Slavi Mikinski**

Managing Partner

**at Mikinski & Partners Law Office**

slavi@mikinski.bg

+359 878 150 000



## **CHAPTER 5**

### **HOW TO ENFORCE A JUDGMENT IN CYPRUS**

#### **(A) What is the applicable law?**

a) Domestic Judgments:

- Civil Procedure Rules of the Courts of Cyprus
- Civil Procedure Law Cap. 6 (14/1960)

b) Foreign Judgments:

- Foreign Court Judgments (Recognition, Registration, and enforcement Pursuant to Treaty) Law 121(I)/2000 – Default procedural provisions on the recognition and enforcement of all foreign judgments which may be recognised and enforced pursuant to substantive statutory provisions, where no other procedural provisions are delineated.
- Recast Brussels Regulation 1215/2012 – Procedural and substantive provisions on the recognition of judgments issued in other Member States.
- EU Regulation 805/2004 – Procedural and substantive provisions on the certification as European Enforcement Orders of judgments issued in Member States pursuant to uncontested claims in commercial or professional matters.
- EU Regulation 861/2007 – Procedural and substantive provisions on the recognition and enforcement of judgments issued in Member States regarding small claims.
- EU Regulation 1896/2006 – Procedural and substantive provisions on the recognition and enforcement of judgments issued in Member States regarding uncontested pecuniary claims.
- EU Regulation 2018/1805 – Procedural and substantive provisions on the recognition and enforcement of freezing and confiscation judgments issued in Member States in the context of criminal proceedings
- Foreign Judgments (Reciprocal Enforcement) Law of 1935 Cap. 10 as amended by Law 130(I)/2000 – Substantive provisions on the recognition and enforcement of judgments issued in the United Kingdom, British dominions, protectorates, and mandated territories as well as other foreign countries which afford reciprocal treatment to Cypriot court judgments.
- Common law regime – Recognition by filing an action on the foreign judgment.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

The Republic of Cyprus is party to bilateral agreements with the following countries:

- The Czech Republic (Law No. 68/1982)
- Hungary (Law No. 7/1983)
- Bulgaria (Law No. 18/1984)
- Greece (Law No. 55/1984)
- Syria (Law No. 160/1986)
- The Russian Federation (Law No. 172/1986)

- Ukraine (Law No. 8(III)/2005)
- States of former Yugoslavia (Serbia and Slovenia) (Law No. 179/1986)
- Egypt (Law No. 32(III)/1996)
- China (Law No. 19(III)/1995)
- Poland (Law No. 10(III)/1997)
- Germany (Law No. 5/1984)

The Republic of Cyprus is bound by the Hague Convention on the Recognition and Enforcement of foreign Judgments 1971, though this is in practice not applicable since no parties have signed a supplementary agreement with Cyprus to date.

By virtue of it being an EU Member State, Cyprus is also bound by the Hague Convention on the Choice of Courts 2005, and the Lugano Convention 2007, among others.

**(C) What types of judgments in commercial matters are enforceable?**

**a) Domestic Judgments:**

Any Court judgments or orders issued by a Court exercising its civil jurisdiction are automatically enforceable on issue.

**b) Foreign Judgments:**

Any Court judgment which may be recognised as a Cyprus judgment under the legal regimes laid down above.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

There is no rule preventing natural persons from filing the necessary documents for the enforcement of judgments, however given the procedural terrain, legal representation is strongly advised. Legal persons must, by law, always engage legal representation.

**(E) Is a security for costs needed?**

No.

**(F) Which court is the competent court?**

The recognition of foreign judgments and subsequent enforcement measures fall within the jurisdiction of the District Courts of Cyprus in the exercise of their civil jurisdiction.

**(G) Can the debtor oppose to the enforcement?**

A judgment debtor can oppose enforcement by applying for a stay of execution on the grounds of facts which have arisen too late to be pleaded. Further, the law provides for measures to oppose specific execution measures (i.e., opposing the divestment of debtor's land). The filing of an appeal against the judgment does



not automatically affect the enforceability of a judgment. The debtor can also contest the recognition and enforcement of the judgment itself only for a limited number of specific grounds (public order, irreconcilable with an earlier judgment, given in default of appearance, without the defendant being able to arrange for his defence etc.). In most cases the judgment may not be reviewed as to its substance.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

An “automatic” freezing order may be obtained upon the issue of the judgment where such a freezing order was pleaded in the claim. Alternatively, upon securing the judgment, a judgment debtor may file an interim application for a freezing order. We note that in the case of European Account Preservation Orders, these are recognised and enforceable in Cyprus without any further step, as per Regulation 655/2014.

**(I) How do you secure the effectiveness of an immovable property?**

A judgment creditor must immediately register their judgment against the property (known in Cyprus as a “MEMO”, it is a charge *in rem*). Whether immovable property will prove adequate for the enforcement of a judgment debt depends on what interests and charges are registered on the property which predate the registration of the judgment.

**(J) Is there a Bailiff in your jurisdiction?**

Yes.

**(K) Can one freely choose the person of the bailiff?**

Court bailiffs are public servants, employed permanently at the courts, and are responsible for procedural acts necessary for the execution of judgments. One cannot freely choose the court bailiff who will handle matters pertaining to the enforcement of a judgment.

**(L) How much does this cost?**

The issuance of writs of execution carries stamp duty calculated on the basis of the value of the judgment debt.

**(M) In which field will they work?**

Court bailiffs are public servants who work at the courts and handle procedural aspects of measures for the enforcement of a judgment against moveable property.

**(N) How do they work?**

Court bailiffs have the power to do all things necessary for the execution of a writ for the seizure and sale of movable property.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Any provision of the original judgement regarding interest should be honoured unless it contravenes public order. Further, Law 14/1960 provides that notwithstanding specific statutory provisions for the adjudication of interest on capital sums, the default position is that the Courts have discretion to adjudicate interest on any judgment sum. The maximum interest judgment creditors are entitled to is dictated by an order of the Minister of Finance and today stands at 2%.

Reference contact in Cyprus:

**Xenia Kantouna**

Lawyer

at **Papadopoulos, Lycourgos & Co LLC**

[x.kantouna@paplyclaw.com](mailto:x.kantouna@paplyclaw.com)

+35722676126



## **CHAPTER 6**

### **HOW TO ENFORCE A JUDGMENT IN ENGLAND**

#### **(A) What is the applicable law?**

(a) Domestic judgments: Civil Procedure Rules 1998 as amended (CPR). Judgments to be enforced for money judgments in Scotland and Northern Ireland (and vice versa) require an application to be made for registration of a certificate for enforcement under the Civil Jurisdiction and Judgments Act 1982 (1982 Act).

(b) Foreign judgments: Brussels I Regulation 44/2001 (proceedings started in EU Member State before 10.01.15. Brussels I (Recast) Regulation 1215/2012 (10.01.15 to 31.12.20). Foreign Judgments (Reciprocal Enforcement) Act 1933 (FCA 1933) (also applies to some EU Member States where relevant bilateral treaty in place). Administration of Justice Act 1920 (AJA 1920) (Mainly applies to Commonwealth countries and British Overseas Territories) includes Cyprus & Malta. Common law rules apply where no applicable treaty in place with UK. A foreign judgment will need to be final and conclusive. The Judgment Creditor will need to bring an action in the English Courts based on a simple debt.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Convention 1968 applies to judgments in Gibraltar and some dependent territories of EU Member States.
- 2005 Hague Convention on Choice of Agreements ( Dependent on when the choice of agreement was entered into).
- 2007 Lugano II Convention applies to UK proceedings prior to 01/01/21 and can be enforced in any EU Member State/Iceland/Norway/Switzerland

#### **(C) What types of judgments in commercial matters are enforceable?**

Domestic:

- Money Judgments
- Default Judgments (can be subject to an application to set aside)
- Judgments ordering or prohibiting the doing of acts or injunctions
- Declaratory Judgments
- Judgment awards made without notice (relate to provisional measures- enforceable, but can be subsequently set aside)

Foreign:

- Money Judgments
- Default Judgments (if there was no submission to the jurisdiction) and Judgments made without notice awards (if the judgment/order has been served), foreign decisions granting provisional measures
- Declaratory (recognised under common law regime) – enforceable under European regime but not under the statutory or common law regime.

Some other types of judgments – there are separate rules relating to insolvency (both under the European and common law regime). Arbitration awards and specific European regulations that apply to wills and succession and matrimonial matters.

### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

A Party does not need legal representation and can act in person (Litigant in person) or can instruct a Solicitor or a barrister (direct access).

#### **(E) Is a security for costs needed?**

A challenge can be made under the provisions of Article 44 (1) of the Recast Brussels Regs.

An application can be made under S.3 in respect of persons applying for the registration of judgments.

There are also provisions under Part II of AJA 1920 and FCA 1933, regarding enforcement making it necessary for claimants residing in those countries to which those Acts apply to give security.

CPR 74 concerning Security for costs was amended following exit day (31.12.20) and omitted reference to the Lugano Convention and Judgments Regulation, save for some transitional and saving provisions.

In respect of any appeal proceedings, it may be possible to obtain security against a judgment creditor who is resident overseas or if certain other provisions apply.

#### **(F) Which court is the competent court?**

Proceedings that require the recognition and enforcement of foreign judgments in England & Wales should be brought in the High Court.

#### **(G) Can the debtor oppose to the enforcement?**

Having obtained a registration order under the Brussels Regulation 2001, Brussels Convention 1968, Lugano Convention 2007, AJA 1920 and FCA 1933, there is a period of time to challenge or appeal and no steps can be taken to enforce until the application/appeal is finalised.

Under Article 44(1) of the Brussels Recast, it is possible to limit and challenge enforcement proceedings.

In respect of other enforcement proceedings not mentioned above, it may be possible to apply for injunctive relief.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

You must apply to the Court for a further Order following registration (called an Interim Third Party Debt Order and then apply for it to be made final).

**(I) How do you secure the effectiveness of an immovable property?**

You must apply to the Court for a further Order following registration (Called an Interim Charging Order – You must apply for it to be made final). It may be possible to further apply to the Court for an Order for Sale of the property, following the making and registration of the Final Charging Order.

**(J) Is there a Bailiff in your jurisdiction?**

Yes, called High Court Enforcement Officers (HCEO).

**(K) Can one freely choose the person of the bailiff?**

Yes, HCEO's are authorized by the Government. Can be instructed through the High Court Enforcement Officers Association or direct.

**(L) How much does this cost?**

HCEO fees are recovered in full from the judgment debtor if enforcement is successful. If unsuccessful, the judgment creditor would normally only have to pay a compliance fee.

**(M) In which field with they work?**

In terms of monies owed in respect of an individual - please see below. The HCEO also has greater powers in respect of entry to commercial premises to remove stock, vehicles, goods, machinery etc. for sale at auction.

The HCEO can also enter into a debt repayment plan with the Judgment Debtor.

**(N) How do they work?**

The HCEO may visit the judgment debtor to secure payment or agree a payment plan. Goods may be removed and sold at auction, which includes vehicles, jewellery, goods, stock, equipment, to the value of the judgment debt.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Interest may be payable at the rate of 8% per annum, once registered in the High Court. (The amount stated in the foreign judgment will have to be converted to Pounds Sterling at the time for applying for enforcement) or at the interest rate provided for in the foreign judgment.

Reference contact in England:

**Kevin Harrison**

Lawyer

at **ebI miller rosenfalck**

[kevin.harrison@ebi-mr.com](mailto:kevin.harrison@ebi-mr.com)

+44 (0)7780 452 597



## **CHAPTER 7**

### **HOW TO ENFORCE A JUDGMENT IN HUNGARY**

#### **(A) What is the applicable law?**

- (a) Domestic judgments: Act LIII of 1994 ("Enforcement Act") and regarding Enforcement Suit Procedures and as a base act: Act CXXX of 2016 ("Civil Procedure Act").
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels I Regulation); Act XXVIII of 2017 on Private International Law.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

#### **(C) What types of judgments in commercial matters are enforceable?**

Basically, all judgments with the 3 conjunctive conditions:

- (a) the resolution to be enforced sets forth an obligation (condemnation) and
- (b) It is final and non-appealable, or where the resolution is preliminarily enforceable
- (c) 3.) the deadline for fulfilment has elapsed.

#### **General outlines:**

#### **(D) Are the lawyers and procurator needed?**

In principle a lawyer is not needed. A bailiff suffices.

#### **(E) Is a security for costs needed?**

No security for costs is needed, but the bailiff asks his starting fee in advance and only acts when it is credited on the bailiff account (except for the swift payment order on bank accounts, now they are doing it first and fast).

#### **(F) Which court is the competent court?**

The court that heard the matter in the first instance, but it differs in EU Matters: the first instance court having its seat in the city of the second instance court in which city the debtor resides (in Budapest, the Central District Court of Buda).

#### **(G) Can the debtor oppose to the enforcement?**

The person or entity requesting enforcement or any other interested party whose right or legitimate interest is violated by an action or omission by the bailiff may submit an enforcement demurrer, to be submitted to the bailiff. The bailiff must forward the same to the court implementing enforcement. Moreover, there are the so-called Enforcement Civil Suit Procedures (1. Proceeding for the termination and limitation of enforcement; 2.

Enforcement Claim [when something is occupied and this thing is a property of a third person and not of the debtor], 3. Lawsuit for reservation tolerance).

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, attachment order, transfer order.

**(I) How do you secure the effectiveness of an immovable property?**

By registering it in the Land Registry.

**(J) Is there a Bailiff in your jurisdiction?**

There are court bailiffs.

**(K) Is the judgement creditor entitled to interest? If so, on what basis is it calculated?**

Based on what the judgement says that is enforced. It depends.

Reference contact in Hungary:

**dr. András REINHARDT**

Attorney-at-law

Partner

at **Squarra & Partners**

reinhardt@squarra.hu

+36 1 474 2080





## **CHAPTER 8**

### **HOW TO ENFORCE A JUDGMENT IN INDIA**

#### **(A) What is the applicable law?**

In India, the execution or enforcement of a foreign or a domestic decree is governed by the Civil Procedure Court, 1908.

a) Domestic: Execution or enforcement of a domestic decree is governed by order 21 of the Civil Procedure Court, 1908. Once the decree is awarded, the decree holder can apply for execution or enforcement after 90 days of passing of award. The decree may be executed either by the court which passed it, or by the court to which it is sent for execution. The limitation for filing an execution Application under Order 21 of the CPC, must be filed before the competent court within 12 years from the date of passing of the Decree.

b) Foreign: The enforcement of a foreign decree in India is governed by Section 44 A of the Civil Procedure Code, which provides the direct mechanism and procedure for Execution of decrees passed by Courts in reciprocating territory. A reciprocating territory means any country or territory outside India which the Central Government may, by notification in the Official Gazette, declare or notify for the purposes of the said section. As of now, the Government of India has notified a few countries as reciprocal territories, wherein the latest addition to the list is the United Arab Emirates (UAE), which was added by way of an Extraordinary Gazette Notification, issued by the Ministry of Law and Justice in 2020.

Where a certified copy of a decree of any of the superior Courts of any reciprocating territory has been filed in a District Court in India, the decree may be executed as if it had been passed by the said District Court.

For a foreign award to be enforced in India, it is necessary that the judgement, decree, or award is "Conclusive" i.e., it is passed by examining the merits of the case by a superior court having competent jurisdiction and must satisfy the conditions of section 13 of the CPC to be enforceable in India. A decree can be invalidated under certain circumstances e.g., if has not been pronounced by a Court of competent jurisdiction, where it has not been given on the merits of the case, where the proceedings in which the judgment was obtained are opposed to natural justice etc.

Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

For executing the awards of Countries which are not recognised as Reciprocating Territories by the Government, a mechanism for direct execution/enforcement is not established. In such cases, a suit is to be filed before the appropriate court seeking recognition and then enforcement of the decree passed by a non-reciprocal territory or a separate suit on the original cause of action itself.

#### **(B) What international conventions and agreements is your jurisdiction a party to?**

India is a signatory to the Geneva Convention on the Execution of Foreign Arbitral Awards, 1927 ("Geneva Convention") and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 ("New York Convention"). The arbitral award would be enforceable in India, if the courts in India receive an arbitral award from a country, which has signed the Geneva Convention or New York Convention, and the award is made in a territory, which has been notified as a convention country by India.

**(C) What types of judgments in commercial matters are enforceable?**

Domestic: All types of judgments in commercial matters including Money judgements, Summary judgements, Ex-Parte Judgements or default judgements are enforceable in India, provided the said judgements are passed on the merits of each case.

Foreign: According to Explanation 2 to Section 44 A, CPC, only such foreign judgements are enforceable under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty. Foreign judgments in commercial matters must be final, conclusive and satisfy the conditions of section 13 of the CPC to be enforceable in India.

Foreign arbitral awards are not enforced unless an application for enforcement is made under section 48 of the Arbitration and Conciliation Act, 1996.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

Yes.

**(E) Is a security for costs needed?**

No. Security for costs are generally applicable on Suits only, as per the Civil Laws of India, and not on Execution applications.

**(F) Which court is the competent court?**

The court which passed the order or the court to which it is sent for execution.

**(G) Can the debtor oppose to the enforcement?**

Yes.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Generally, No.

**(I) How do you secure the effectiveness of an immovable property?**

It is important to identify the owner of the Immovable property. Once the same is established and if it belongs to the Judgement debtor, the same can be attached.

**(J) Is there a Bailiff in your jurisdiction?**

Yes.

**(K) Can one freely choose the person of the bailiff?**

No. It is appointed by the Court.

**(L) How much does this cost?**

Since bailiff acts on behalf of the court, there are no costs as such, however, the decree holder is directed to pay a nominal diet money to the bailiff for getting the order executed.

**(M) In which field they work?**

Attaching properties under orders of a court of law, Receiving the attachment from the court, Visiting the site of the property to be attached, Arranging for publicity by beating of drum or otherwise, Collecting a responsible witness of the locality in whose presence the attachment proceedings are conducted or the inventory of attached property is made, if such a provision is made in the court's order.

**(N) How do they work?**

The court appointed bailiff accompanies the Decree holder to get the order executed by means of attachment. They also have the power of breaking open locks, if specifically mentioned in the order of attachment by the executing court.

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

No additional interest can be claimed in an execution petition. Interest can only be granted by the trial court (in domestic decrees) or the foreign court (in foreign decrees) and not the executing court in India, however it takes care of the fact that the interest granted till realization of directed amount is fully calculated and paid.

Reference contacts in India:

**Ms. Promila Dhar**

Partner

at **India Law Offices**

[office@indialawoffices.com](mailto:office@indialawoffices.com)

+91-11-24622216



**Ms. Shivani Sinha**

Lawyer

at **India Law Offices**

[office@indialawoffices.com](mailto:office@indialawoffices.com)

+91-11-24622216



## **CHAPTER 9**

### **HOW TO ENFORCE A JUDGMENT IN SPAIN**

**(A) What is the applicable law?**

- (a) Domestic judgments: Civil Procedure Act 7th January 2000
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary, Act 29/2015 30 July on international legal cooperation in civil matters

**(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

**(C) What types of judgments in commercial matters are enforceable?**

Most of them with the only limiting factors being Spanish public Policy. When rendered in default, mainly depends on the correct service of proceedings.

**General outlines:**

**(D) Are the lawyers and procurator needed?**

The applicant must grant a power of attorney in favour of local procurators. The application must be signed by a Spanish lawyer too.

**(E) Is a security for costs needed?**

No security for costs is needed.

**(F) Which court is the competent court?**

The court that heard the matter in the first instance.

**(G) Can the debtor oppose to the enforcement?**

The debtor can oppose the adoption of specific measures laid down in the decision granting enforcement by initiating appeal proceedings within 5 days. Enforcement is not suspended.

**Measures to secure the effectiveness of enforcement:**

**(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, since 2011 most of the banks have subscribed a special agreement.

**(I) How do you secure the effectiveness of an immovable property?**

The court orders a preventive annotation of seizure in the corresponding public register of property. Must be confirmed every 4 years.

**(J) Is there a Bailiff in your jurisdiction?**

No, there is not.

**(K) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Different annual rates apply. Before the judgment, the legal base rate since the claim is filed; after the judgment, the rate is increased by 2 %.

Reference contact in Spain:

**Gloria Vinyals**

Lawyer

at **Bufete Mañá-Krier-Elvira**

gv@bmk.es

+34 93 4878030

