

Enforcement of Foreign Judgments

Fundamental Principles [Croatia]

2020



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I. RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION (CIVIL AND COMMERCIAL MATTERS)

A. Ability to Apply for Recognition and Enforcement of a Court Judgment

- 1. Is it possible to apply for enforcement of a foreign court judgment in your country?**

Answer: Yes.

B. Applicable Law: General Rules

- 1. Which laws are generally applicable to the enforcement of a foreign court judgment in your country?**

Answer: The procedure is set out in the Private International Law Act (Zakon o međunarodnom privatnom pravu):

https://narodne-novine.nn.hr/clanci/sluzbeni/2017_10_101_2319.html

C. Special Rules: European Union

- 1. Are there any special rules regarding the enforcement of a foreign court judgment in your country?**

Answer: Yes, Recast Brussels Regulation (EU) 1215/2012 and Brussels Regulation (EU) 44/2001 (for proceedings initiated before 10 January 2015) apply with respect to judgements from the EU Member states.

Bilateral agreements with various countries, including Bosnia and Herzegovina, Turkey, Russia, North Macedonia etc.

For judgements from third countries (outside EU), the provisions of the Private International Law Act apply.

- 2. Does the European Union have a special procedure to enforce court judgments coming from its member states?**

Answer: Yes. The principle is that a claimant who has obtained a judgment from one of the member states can enforce in the other member states without having to begin separate proceedings.

For judgments on civil and commercial matters in court proceedings commenced on or after 10 January 2015, the procedure is governed by the Recast Brussels Regulation which has direct effect in all EU member states, and has also been implemented in Denmark. The Recast Brussels Regulation states that a judgment given in a member state shall be recognised in other member states without any special procedure being required.

Unlike the previous 2001 Brussels Regulation, the Recast Brussels Regulation provides that a judgment given in a member state which is enforceable in that member state shall be enforceable in other states without a declaration of enforceability (exequatur) being necessary.

The general principle is that the procedure for the enforcement of judgments given in another member state is governed by the law of the member state in which enforcement is sought (Article 41(1)).

The 2001 Brussels Regulation continues to apply to civil and commercial matters where court proceedings were commenced prior to 10 January 2015. The courts of the enforcing member state must first declare the judgment to be enforceable and so an application must be made locally (exequatur procedure, in Croatia the application must be made before the competent municipal or commercial court).

D. Average Duration of Enforcement Procedure

1. What is the average length of time for this kind of procedure?

Answer: There is no available information on the average length of the procedure. As the procedure of recognition is quite formal, the procedure should not be lengthy, but it depends on the actions of the opposing party and the competent court's workload. The potential appeal may additionally prolong the procedure. The process of enforcement also depends on the type of enforcement procedure.

II. Denial of Recognition and Enforcement of a Foreign Court Judgment: Reasons

A. Can a Court in your country deny recognition and enforcement of a foreign court judgment? If YES: what kind of reasons may justify denial?

Answer: Yes. If the enforcement is sought under the Recast Brussels Regulation, reasons for refusal are set out in Articles 45 and 46 therein.

Grounds for denying recognition are set out in each respective bilateral agreement.

If the enforcement is sought under the national Private International Law Act, the reasons for refusal of recognition and enforcement of judgements adopted by courts of third countries (non-EU) exist:

- if the applicant did not provide evidence on finality / enforceability of the foreign court judgement;
- if upon objection of the person against whom the decision was rendered, it has been established that due to irregularities in the proceedings they had no opportunity to participate therein;

- if exclusive jurisdiction over the matter involved lies with the courts or some other authority of the Republic of Croatia;
- if the jurisdiction of a foreign court was based exclusively on the presence of the defendant or its property in the State in which the decision was rendered, where such presence is not in direct collision with the subject of the proceeding;
- if the jurisdiction of a foreign court was determined contrary to provisions of Chapter II, Sections 3, 4 and 5 of Recast Brussels Regulation;
- if there is a final judgement of the Croatian court on the same matter and between the same parties, or the judgement of the foreign court which became final earlier, and which is recognised or recognisable in the Republic of Croatia;
- if the effect of recognition thereof would run counter to the public order of the Republic of Croatia.

B. Costs and expenses

1. What kind of cost and expenses can a claimant expect in this enforcement procedure?

Answer: The costs of enforcement procedure vary depending on the complexity of the matter and whether the enforcement is challenged by the other party. The following costs can be expected in connection with such enforcement procedures:

- Court fees
- Translation fees
- Lawyers' fees
- Process server's fees, if applicable
- Costs of enforcement, depending on the method of enforcement.

III. FORMAL REQUIREMENTS

A. Time limit

1. Is there a time limit to apply for enforcement of a foreign court judgment?

Answer: There are no limitation periods for recognition or enforcement under the Recast Brussels Regulation or the 2001 Brussels Regulation, nor under the Private International Law Act.

B. Final and Definitive Court Judgment: Provisional Enforcement

- 1. Is it mandatory for the judgment to be a final and definitive court judgment?
If NO: Are there any special requirements to provisionally enforce a court judgment which is not final and definitive?**

Answer: Generally, the court judgement has to be final and definitive to be enforced in Croatia.

C. Necessary Requirements

- 1. What necessary requirements must the foreign court judgment fulfill to be recognised and enforced?**

Answer: Under EU regime, the foreign judgement has to be certified / declared enforceable in another Member State.

Under the local Private International Law, the foreign court judgement must be final and definite, as well as enforceable, if applicable, under the laws of the country where it is rendered.

D. Other Formal Requirements: Court Fees

- 1. Is it mandatory to pay court fees for this kind of application?**

Answer: Yes. For recognition of foreign court judgement, court fees for proposal and decision amounts to HRK 250 (approx. EUR 34). For appeal, court fees amounts up to HRK 160 (approx. EUR 22).

For enforcement, court fees vary depending on the value of the claim.

- E. Are there any other formal requirements in your country to enforce a court judgment?**

Answer: Under the Private International Law Act, the applicant must provide evidence on finality/enforceability of the foreign judgement whose recognition/enforcement is sought, under the law of the country in which it was rendered.

IV. PROCEDURE

A. Competent court

- 1. Which court or courts are competent to decide an enforcement application?**

Answer: Municipal and commercial courts are generally competent to decide on enforcement application. If the decision of the municipal court is challenged, county courts and High Commercial Court are competent to decide on the appeal.

B. Informational Requirements for the Application to Enforce a Foreign Court Judgment

1. What information must be contained in the enforcement application of a foreign court judgment?

Answer: The enforcement application must contain the following information:

- name of the court;
- personal information of the creditor and debtor (name, address and Croatian personal identification number (OIB), if applicable);
- personal information of parties' representatives, if applicable;
- details of the foreign court judgement;
- enforcement request (containing details on the foreign court judgement, the claim, the enforcement method and the subject of enforcement, if necessary); and
- signature of the applicant.

C. What documents must be included with/attached to the application to enforce a foreign court judgment?

Answer: The following must be attached to the application:

- the judgement or its notarised copy;
- the evidence on its finality/enforceability;
- the translation of said documents;
- proof of payment of court fee;
- power of attorney, if applicable.

D. Phases of the Procedure

1. What are the phases of the procedure to enforce a foreign court judgment?

Answer: The procedure consists of the following phases:

- Filing an application;
- Challenge period;
- Enforcement proceedings.

E. Opposition of the Defendant

1. Can a defendant oppose to this enforcement application?

Answer: Yes.

2. Are there a limited number of reasons for the defendant to oppose to the enforcement of the court judgment? If YES: what are those reasons?

Answer: See answer under II. A above.

Also, the defendant may oppose on grounds for appeal generally applicable in the enforcement procedure, set out in the Enforcement Act.

F. Appeal and its Consequences in this Procedure

1. Is it possible to appeal a court decision to recognise and enforce a foreign court decision?

Answer: Yes. The appeal against the decision on recognition and enforcement of foreign court decision may be filed within 15 days from the receipt of the respective decision.

2. Can this appeal suspend the enforcement?

Answer: No.

G. Recovery of judicial costs and expenses

1. Are there any rules concerning recovery of the judicial costs incurred as a result of the enforcement application?

Answer: Subject to successful enforcement, the debtor shall be under the obligation to bear the costs necessary for enforcement. The final amount of costs is determined by the decision of the court.

V. RECOVERY OF THE DEBT

A. Means of Enforcement

1. What types of assets are subject to enforcement of the court's judgment?

Answer: Pursuant to Croatian Enforcement Act (*Ovršni zakon*), the court shall render a decision on enforcement of the type of assets which is requested in the enforcement application.

Subject to certain exemptions, all types of assets may be subject to enforcement. Generally, assets *extra commercio*, claims derived from taxes and other fees, as well as assets for military and judicial purposes and for the purpose of local and regional municipality, are excluded from the enforcement.

Where enforcement is sought against legal persons, the general principle is that the assets necessary for performance of business activities of the legal person cannot be subject to enforcement, whereby the Enforcement Act regulates specific criteria for application of that exemption.

Where enforcement is sought against natural persons, certain assets are excluded, such as specific types of income (e.g. alimony, social welfare, maternity benefits etc.), items for personal use, household items etc. Also, the Enforcement Act provides for thresholds for enforcement of the debtor's salary.

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer: No.

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