

Enforcement of Foreign Judgments

Fundamental Principles [Greece]

2020



TABLE OF CONTENTS

	Page
I. RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION (CIVIL AND COMMERCIAL MATTERS).....	1
A. Ability to Apply for Recognition and Enforcement of a Court Judgment.....	1
1. Is it possible to apply for enforcement of a foreign court judgment in your country?.....	1
B. Applicable Law: General Rules.....	1
1. Which laws are generally applicable to the enforcement of a foreign court judgment in your country?	1
C. Special Rules: European Union.....	1
1. Are there any special rules regarding the enforcement of a foreign court judgment in your country?	1
2. Does the European Union have a special procedure to enforce court judgments coming its member states?	1
D. Average Duration of Enforcement Procedure	2
1. What is the average length of time for this kind of procedure?	2
II. DENIAL OF RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT JUDGMENT: REASONS	3
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?	3
B. Costs and expenses	4
1. What kind of cost and expenses can a claimant expect in this enforcement procedure?	4
III. FORMAL REQUIREMENTS.....	4
A. Time limit	4
1. Is there a time limit to apply for enforcement of a foreign court judgment?	4

B.	Final and Definitive Court Judgment: Provisional Enforcement	4
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?	4
C.	Necessary Requirements.....	4
1.	What necessary requirements must the foreign court Judgment fulfill to be recognized and enforced?	4
D.	Other Formal Requirements: Court Fees.....	5
1.	Is it mandatory to pay Court Fees for this kind of application?	5
E.	Are there any other formal requirements in your country to enforce a court judgment?	5
IV.	PROCEDURE.....	5
A.	Competent court	5
1.	Which Court or courts are competent to decide an enforcement application?	5
B.	Informational Requirements for the Application to Enforce a Foreign Court Judgment	5
1.	What information must be contained in the enforcement application of a foreign court judgment?	5
C.	What documents must be included with/attached to the application to enforce a foreign court judgment?	6
D.	Phases of the Procedure	6
1.	What are the phases of the procedure to enforce a foreign court judgment?	6
E.	Opposition of the Defendant	6
1.	Can a defendant oppose to this enforcement application?	6
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?.....	7
F.	Appeal and its Consequences in this Procedure	7

1.	Is it possible to appeal a court decision to recognize and enforce a foreign court decision?	7
2.	Can this appeal suspend the enforcement?	8
G.	Recovery of judicial costs and expenses	8
1.	Are there any rules concerning recovery of the judicial costs incurred as a result of the enforcement application?	8
V.	RECOVERY OF THE DEBT	8
A.	Means of Enforcement.....	8
1.	What types of assets are subject to enforcement of the court's judgment?	8
VI.	OTHER ISSUES OF INTEREST IN YOUR JURISDICTION	9
A.	Any other issues of interest in your jurisdiction	9

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. According to article 905 of the Greek Code of Civil Procedure, a foreign court judgment can be enforceable in Greece, under the condition that it is declared enforceable pursuant to a relevant decision of the Single-member Court of First Instance.

B. Applicable Law: General Rules

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

Answer: The law which is applicable to the recognition and the enforcement of a foreign court judgment is the Greek Code of Civil Procedure, articles 740 – 781.

C. Special Rules: European Union

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

Answer: Yes. Greece is bound by the New Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters. The new Convention was signed on 30 October 2007 and was ratified by the EU and entered into force between the EU and its Member States, including Denmark, and the Kingdom of Norway on 1 January 2010. Subsequently it was ratified by Switzerland with effect from 1 January 2011 and Iceland with effect from 1 May 2011.

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

Answer: Yes. The following legislative texts exist relating to the enforcement of foreign court judgments:

- Council Regulation N. 1215/2012 (which replaced Regulation N. 44/2001 since 10.1.2015) on the recognition and enforcement of judgments in civil and commercial matters (Brussels I).

The most important novelty of Regulation N. 1215/2012 is the non-existence of exequatur, which is a major departure from Regulation N. 44/2001. Under the new legal framework, the enforcement of a foreign judgment of an EU

member state in Greece is allowed without any prior application before its Courts. The foreign judgment, along with a form annexed to the Regulation shall be served on the defendant in Greece and enforced directly, without any intermediate procedure in Greece.

- Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (Brussels II).

A judgment on the exercise of parental responsibility enforceable in the EU member state where it was issued can be enforced in another EU member state when it has been declared enforceable there at the request of any interested party. However, **no declaration is required** for judgments granting rights of access or concerning the return of a child that have been certified by the original judge in accordance with the Regulation.

- Regulation N. 805/2004 on the European Enforcement Order for uncontested claims

The above EU Regulation establishes the European Enforcement Order (EEO), the scope of which is to abolish the requirement for prior recognition of a foreign court judgment by the competent authorities of another member state. In such a way, creditors can obtain a quick and efficient enforcement, without time-consuming and costly judiciary formalities.

- Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European Order for Payment procedure

Reference is made to this regulation, even though the “payment order” is not a “judgment” as such.

- Regulation N. 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European small claims procedure

The ESCP aims to simplify and speed up cross-border small claims litigation in civil and commercial matters and cut costs. It ensures that judgments are recognized and enforceable in other EU countries without the need for a declaration of enforceability.

D. Average Duration of Enforcement Procedure

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

Answer: The enforcement of a foreign judgment in civil and commercial matters of an EU member state in Greece is allowed without any prior

application before its Courts. The foreign judgment, along with a form annexed to the Regulation shall be served on the defendant in Greece and enforced directly, without any intermediate procedure in Greece.

However, for decisions issued before January 2015 and in certain cases of matrimonial matters and matters of parental responsibility as well as for judgments issued in a non-EU member state, the maximum time period for the enforcement order to be issued by the Court of First Instance is approximately six months. Since the enforcement order is notified to the debtor, the length of time for the enforcement procedure to be concluded depends on whether the debtor will appeal against the procedure. However, it may vary from two months to a year, depending on the number of objections filed by the debtor.

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: The Greek Court may deny the recognition and enforcement of a foreign court judgment (in cases enforcement procedure is required), in the following cases:

- The foreign court judgment is not final and enforceable under the laws of the country in which it is issued.
- The foreign court judgment does not comply with public order.
- The foreign court judgment is opposite to a relevant Greek court judgment issued for the same dispute between the same parties.
- The defeated party did not properly participate in the hearing and did not exercise his/her right of defense.
- There is an opposite ruling provided by an international treaty.

In cases of judgments from other EU member states, recognition can only be refused in very few exceptional cases and only if there is a ground for refusal of recognition. A judgment will not be recognized (a) if such recognition is manifestly contrary to public policy (ordre public) in the Member State addressed, (b) if, in case of a judgment in default of appearance, it is shown that the defendant was either 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, or (c) it conflicts with the rules of exclusive jurisdiction or the special rules on matters relating to insurance or consumer contracts.

No révision au fond is allowed and the jurisdiction of the foreign court cannot be questioned.

B. Costs and expenses

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

Answer:

The cost expected in this procedure includes the fees of lawyers and procurators, depending on the amount claimed.

In cases of judgments from other EU member states, minimum costs are expected given that a judgment creditor wishing to enforce a judgment requests the court of origin to issue a certificate confirming the enforceability and giving details of the judgment. The certificate and a copy of the judgment are then sufficient authority for enforcement in the Member State addressed.

III. FORMAL REQUIREMENTS

A. Time limit

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

Answer: There is no specific provision. As such, the application for enforcement of a foreign court judgment is subject to the general time limit of 20 years.

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: Yes. Pursuant to article 321 of the Greek Code of Civil Procedure, only final and definitive court judgments can be enforceable in Greece.

C. Necessary Requirements

1. What necessary requirements must the foreign court Judgment fulfill to be recognized and enforced?

Answer: Pursuant to article 323 of the Greek Code of Civil Procedure, the foreign court judgment must fulfill the following requirements:

- It must be final and enforceable under the laws of the country in which it is issued.
- It must comply with the public order.
- It must not be opposite to any relevant Greek court judgment issued for the same dispute between the same parties.
- It must be lawful in Greece.
- The defeated party must have properly participated in the hearing and exercised its right of defense.
- There is no opposite ruling provided by any international treaty.

D. Other Formal Requirements: Court Fees

1. Is it mandatory to pay Court Fees for this kind of application?

Answer: Court fees have to be paid for filing an application for the recognition of a foreign court judgment. Fees must also be paid for the hearing of the relevant petition.

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

Answer: No.

IV. PROCEDURE

A. Competent court

1. Which Court or courts are competent to decide an enforcement application?

Answer: In cases declaration of enforceability is required, the competent court is the Single-member Court of First Instance.

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 details:

- The court with which the petition is filed.
- The names and addresses of the parties.
- The details of the foreign court judgment which needs to be recognized and enforced in Greece.
- The description of the case's real facts.
- The fact that the foreign court judgment is final and enforceable, according to the laws of its country of origin.

- The petition for recognition and enforcement.

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

Answer: The documents to be submitted by the court together with the enforcement application are the following:

- The foreign court judgment together with its translation.
- The initial lawsuit filed with the foreign court, together with its certificate of service.
- A certificate of enforcement issued by the foreign court, proving that the judgment in question is enforceable in its country of origin.
- A certificate of the competent Greek court, testifying that no judgment has been issued in Greece between the same parties and for the same dispute.

D. Phases of the Procedure

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

Answer: In cases of judgments issued by other EU member states, the person against whom enforcement is sought must be informed of this, by means of a certificate concerning a judgment in civil and commercial matters. This is drawn up at the request of any interested party by the court of issuance of the decision. The certificate must be accompanied by the judgment (if it has not already been served). It must be served on the person in reasonable time prior to enforcing the judgment.

In cases the foreign court judgment must be recognized and enforced by the Greek courts, the main phases of the procedure are the following:

- Recognition of the foreign court judgment, upon petition of the interested party.
- Enforcement of the recognized foreign court judgment, upon decision of the Greek court.
- Seizure of assets subject to enforcement.

E. Opposition of the Defendant

1. Can a defendant oppose to this enforcement application?

Answer: Yes. In cases of declaration of enforceability by Greek courts, the defendant may oppose through the filing of his pleadings.

In cases of judgments issued by other EU member states, an application may be lodged by any interested party against recognition and by the judgment debtor against enforcement before one of the courts listed by the Commission for that purpose. In Greece, for applications for refusal of enforcement, the Single-Member Court of First Instance of the place of residence of the person against whom enforcement is requested, is the competent one. For applications for the issuance of a judgment that there are no grounds for refusal of recognition under Article 36, paragraph 2, the Single-Member Court of First Instance of the place of residence of the person against whom the application is made for recognition that there no grounds for refusal, is the competent one.

Moreover, the debtor may apply to the court for the refusal of the recognition or enforcement of a judgment on the grounds for refusal of recognition or enforcement. The ruling on the application for refusal of enforcement may be challenged by the parties in a special procedure (Articles 49-51 of the Brussels I Regulation). The Single-Member Court of First Instance is also competent for applications for refusal of recognition.

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: The judgment debtor can apply to the court for refusal of recognition or enforcement of a judgment on the basis of one of the grounds for refusal of recognition. Under no circumstances may a foreign judgment be reviewed as to its substance.

F. Appeal and its Consequences in this Procedure

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

Answer: In cases of declaration of enforceability by Greek courts, upon petition of any party, the decision recognizing and enforcing a foreign court decision may be revoked or reformed, in case of new facts arise. In addition, the aforementioned decision is subject to appeal within 30 days starting from its service to the counterparty.

In cases of judgments issued by other EU member states, the decision on the application for refusal of enforcement may be appealed by the parties in a special procedure provided by articles 49 to 51 of the Regulation N. 1215/2012.

2. Can this appeal suspend the enforcement?

Answer: In cases of declaration of enforceability by Greek courts, the appeal against the decision recognizing a foreign court decision suspends the enforcement.

In cases of judgments issued by other EU member states, the court which hears an appeal lodged under Article 49 or Article 50 of the Regulation N. 1215/2012 may suspend the enforcement if an ordinary appeal has been lodged against the judgment in the Member State of origin or if the time for such an appeal has not yet expired. In the latter case, the court may specify the time within which such an appeal is to be lodged.

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: Judicial costs can be recovered through the seizure procedure, unless the debtor's appeal is accepted by 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: All moveable and immovable property, including claims, can be subject to enforcement. However, according to article 953 of the Greek Code of Civil Procedure, moveable assets which are absolutely necessary for the sustenance of the debtor and his family and/or (b) are necessary for the practice of a profession or for the labor of any debtor who thus earns his living, are excluded from enforcement.

Pursuant to article 982 of the Greek Code of Civil Procedure, the following are also excluded from enforcement:

- Assets subject to imminent damage.
- In case of partnerships, the company's share.
- The claims for maintenance deriving from the law or the testimony, as well as the claims for the husbands' contribution to the family's needs.
- The claims for salary, pension or social security benefits, unless if these are needed for someone's maintenance or the contribution to the family's needs. In this case, the enforcement is allowed until the half of the above claims, taking also under consideration the debtor's revenues, his obligations and the number of the beneficiaries.

- Any kind of community aids.

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer: The Greek Code of Civil Procedure has been recently renewed by Law 4335/2015 which is really innovative and simplifies the relevant procedural formalities.

GREECE

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