

Enforcement of Foreign Judgments

Interim and Precautionary Measures [Greece]

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I. APPLYING FOR INTERIM AND PRECAUTIONARY MEASURES

1. Is it possible to apply for an interim measure in order to assure the effective enforcement of a Court decision?

Answer: In cases of declaration of enforceability by Greek courts, the answer is yes. The purpose of adopting an interim measure is to assure the satisfaction of the legal rights, which are subject to the Court decision related to the main lawsuit. Art. 20 Para 1 of the Greek Constitution guarantees the judicial protection of individual rights, including through the interim judicial protection.

Art. 682 – 738 of the Code of Civil Procedure are the main legal source for interim measures.

No interim measures are needed to be filed by the person seeking enforcement of a judgment issued by another EU member state, given that if the foreign judgement is enforceable in the country of origin, it is enforceable also in Greece without requiring any declaration of enforceability or interim measures.

2. Is it mandatory to pay court fees for this type of application?

Answer: Yes. Court fees have to be paid for the filing of an application for granting an interim measure.

3. What is the ordinary/average length of time for this kind of procedure?

Answer: No ordinary length of time for granting or rejecting an interim measure is laid down in the Code of Civil Procedure. Approximately, the duration of this procedure may take as long as 6 months.

II. TYPES OF INTERIM AND PRECAUTIONARY MEASURES.

1. For which types of interim measures are the parties allowed to apply? (e.g., injunction, freezing orders, caveat, restraining order, etc.)

Answer: The measures laid down in the Code of Civil Procedure are the following:

- a) Granting a guarantee to ensure the plaintiff's claim to money;
- b) Registration of a prenotation of mortgage on immovable assets in order to ensure the plaintiff's claim;
- c) Preservative seizure on movable or immovable property, ships or airplanes and rights in rem so as to prevent the defendant from disposing or causing damage to his assets and, thereby, cancelling the enforcement of a possible judgment;

- d) Judicial sequestration of assets in case of a dispute regarding the ownership or possession of property. The Court may also order judicial sequestration of trade books, deeds or samples in case the plaintiff has the right to ask for the display of them, pursuant to the provisions of substantive Civil and Commercial Law;
- e) Interim adjudgement of a claim to money, in order to ensure the applicant's alimentation and welfare;
- f) Interim settlement of the conflict: The Court may order the execution, omission or sufferance of an action;
- g) Sealing, unsealing, inventory and public deposit to the Deposits and Loans Fund.

III. PROCEDURE

1. Competent Court

- a) **Which court has jurisdiction to grant these interim and precautionary measures?**

Answer: Interim measures are granted by the Single-member Court of First Instance, unless the main lawsuit is subject to the jurisdiction of the Court of Peace. The local jurisdiction is defined by the place where the interim measures will be enforced.

2. When can the application for interim and precautionary measures be submitted?

- a) **Is it possible to apply for it at the time the underlying lawsuit is filed? If YES: Are there any special requirements when so doing?**

Answer: The precautionary measures can be submitted at any time, before, after or at the same time with the main lawsuit.

3. Is it possible to apply for interim precautionary measures before filing the underlying lawsuit? If YES: Are there any special requirements when so doing? (e.g., deadline to submit the lawsuit)

Answer: Precautionary measures can be filed before filing the underlying lawsuit. In case a court judgment ordering the interim measures is issued before filing the underlying lawsuit, the judge may at his discretion set a period, no less than 30 days, the interested party must file the underlying lawsuit within.

4. **Is it possible to apply for interim precautionary measures after filing the main claim? If YES: Are there any special requirements when so doing?**

Answer: Yes. There are no special requirements for applying for a precautionary measure after filing the main lawsuit.

5. **Criteria used by the court for granting these measures**

- a) **What requirements must be fulfilled in order to apply for an interim measure? (e.g., *periculum in mora*, *fumus boni iuris*, security, etc.)**

Answer: According to Art. 682 Para 1 of the Code of Civil Procedure, the application for interim measures implies either a case of emergency or of imminent danger. In these two cases, which both need to be proved by the applicant, the Court may order the interim measures, so as to maintain a right or regulate a situation.

6. **Procedure**

- a) **Which are the main steps of the procedure after filing the interim measure application? (e.g., holding a hearing, presenting evidence, etc.)**

Answer: After filing a petition for interim measures, the parties are convened to a hearing, so as to develop their arguments. For a precautionary measure to be granted, not full evidence is required. Just the probability of the applicant's arguments is sufficient for the issue of the interim measures. The Court can also collect the evidence self-acting. The Court can order the interim measure which it considers as the most appropriate, without taking into consideration the measure applied for by the applicant. According to Art. 692 Para 3 of the Code of Civil Procedure, the Court has the possibility to grant more than one precautionary measure. In any case, the principle of proportionality must be taken into account.

- b) **Is it possible for the Court to order an interim measure without hearing the other party? (*in audita parte debitoris*). If YES, under what circumstances can the parties apply for it?**

Answer: Yes. According to Art. 687 Para 1 of the Code of Civil Procedure, it is possible for the Court to order an interim measure without hearing the other party, in special cases of emergency or present danger.

- c) **What are the main steps of the procedure in this case?**

Answer: The procedure is held, without the defendant being represented. However, according to Art. 696 Para 1 of the Code of Civil Procedure, the

party, against whom the interim measure is taken and who was not represented at the hearing can file an application for the withdrawal or amendment of the interim measure granted. This application must be submitted to the Court which ordered the interim measure.

7. Opposition of the defendant

a) Is it possible for the defendant to oppose interim and precautionary measures?

Answer: In general, the court judgment on interim measures cannot be appealed. Only in case the defendant was not represented at the hearing, he can file an application for the withdrawal or amendment of the ordered precautionary measures.

Moreover, according to Art. 696 Para 3 of the Code of Civil Procedure, until the hearing of the underlying lawsuit, the Court can amend or withdraw the precautionary measure taken, upon application of any party having legitimate interest. The amendment or withdrawal may take place under the condition that the circumstances, which justified the granting of the interim measure, have changed or do no longer exist.

b) Is it possible for the defendant to ask the Court for the substitution of the interim measure for a guarantee?

Answer: Yes. The precautionary measures ordered may be replaced by a guarantee. The judge who adopted the measure is competent to do this.

8. Appeal

a) Are appeals allowed from the court decision ordering the measures or rejecting the defendant's opposition to them?

Answer: No. As a principle, no appeal may be filed against a Court decision granting or rejecting a precautionary measure.

As an exception set by Art. 734 Para 3 of the Code of Civil Procedure, an appeal may be filed only against a Court decision ordering a precautionary measure related to the settlement of one's possession. The appeal may be filed within 10 days, commencing from the service of the Court decision ordering the measures.

b) Is it possible to enforce the interim measure once an appeal is filed?

Answer: According to Art. 734 Para 4 of the Code of Civil Procedure, the filing of an appeal does not prevent the enforcement of the interim measure, unless a suspension of the enforcement procedure is ordered.

IV. EFFECTS AND VALIDITY OF INTERIM AND PRECAUTIONARY MEASURES.

- 1. Is it possible to enforce the interim measure when the other party obstructs it?**

Answer: Yes. The general enforcement rules are applicable to the enforcement of precautionary measure.

- 2. Is it possible to modify a previous interim measure?**

Answer: Yes. Once the measures have been adopted, they may be modified, if the facts and circumstances, which justified the granting of the interim measure, have changed or do no longer exist.

- 3. When is it possible to raise an interim measure?**

Answer: Once the judgment on the underlying lawsuit is rendered, the interim measure is raised ipso jure. Moreover, it is possible to have an interim measure raised, in case the circumstances that justified its granting have changed or do no longer exist.

- 4. Are there any rules concerning the costs (e.g., lawyers' fees, etc.) related to the application?**

Answer: The applicant must pay lawyer's fees and expenses for his legal representation at the hearing before the Court. When the opposition to precautionary measures is allowed by the Court, the applicant must pay fees and expenses. If the opposition is rejected the defendant must pay the fees and expenses.

V. ARBITRATION

- 1. Is it possible to apply for an interim measure in order to assure the effective enforcement of an Arbitration Award in your country? If YES: what is the enforcement procedure?**

Answer: Yes. According to Article 889 Para 2 of the Code of Civil Procedure, interim measures may be granted before the initiation of the Arbitration Procedure. In this case, the interim measure is released if, within 30 days after being granted, the arbitration procedure is not initiated.

- 2. Are the arbitrators, entitled to order an interim measure?**

Answer: No. According to Articles 685 and 889 Para 1 of the Code of Civil Procedure, arbitrators are not entitled to grant, amend or raise an interim measure.

VI. FOREIGN PROCEDURE & ARBITRATION

1. **Is it possible to apply for an interim measure before your country Courts in order to assure the effective enforcement of a foreign Court Decision or Arbitration Award? If YES: how is this procedure executed?**

Answer: Yes. The above described procedure of granting a precautionary measure, as provided by the Greek Civil Code (art. 682 – 703), will be applied as well.

VII. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION.

1. **Please state/provide any other issues of interest in your jurisdiction.**

Answer: According to Art. 691A of the Code of Civil Procedure, the Court may grant an interim injunction before the hearing of the petition for interim measures. The interim injunction may be in force, until the judgment on the application for interim measures is issued.

GREECE

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