

Enforcement of Foreign Judgments

Fundamental Principles [Hungary]

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, pursuant to Article 205 of the Act LIII of 1994 on Judicial Enforcement (hereinafter: “**Judicial Enforcement Act**”), foreign court judgments and the foreign court arbitration judgments are enforceable in Hungary according to the provisions of an act or an International Treaty or according to the principle of reciprocity.

B. Applicable Law: General Rules

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

Answer: The following laws are applicable to the enforcement of foreign court judgments:

- General law: Judicial Enforcement Act.
- For judgements from an EU Member State: Regulation (EC) 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 (“**Brussels I**”).
- For judgements from a non-EU Member State: Act XXVIII of 2017 on Private International Law.
- In case of arbitral awards: the New York Convention.
- In certain cases, bilateral or multinational international treaties may also be applicable as Hungary is a party to various international treaties aiming to establish judicial cooperation in the fields of, among others, civil and family law matters.

C. Special Rules: European Union

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

Answer:

Hungary is a member of the EU, thus, EU law will apply in Hungary just as in any other EU jurisdiction. Please see our detailed response below.

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

Answer: Yes.

1) Brussels I.

Brussels I shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

If a final and non-appealable judgment was obtained in the courts of any EU Member State with respect to civil and commercial matters, the courts of Hungary will recognize it and will deem it enforceable upon the request of the interested party without re-trial or re-examination of the merits of the case, except for cases when:

- (a) such recognition is manifestly contrary to public policy in Hungary;
- (b) it 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 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 so to do;
- (c) it is irreconcilable with an earlier judgment given in a dispute between the same parties in Hungary;
- (d) it is irreconcilable with an earlier judgment given in another Member State of the EU 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 Hungary; or
- (e) the judgement conflicts with the provisions of Brussels I dealing with jurisdiction in matters relating to insurance, jurisdiction over consumer contracts and exclusive jurisdiction.

We hope the exceptions listed above are self-explanatory. In connection with the first item, please note that it is not possible to express a precise and definitive view on the exact scope of Hungarian public policy at any particular time.

The decision on the declaration of enforceability may be appealed by either party. The appeal shall be dealt with in accordance with the provisions governing procedure in contested matters. Under no circumstances may the foreign judgment be reviewed as to its substance.

2) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 on creating a European Enforcement Order for uncontested claims

The purpose of the Regulation is to create a European Enforcement Order for uncontested claims to permit, by laying down minimum standards, the free circulation of judgments, court settlements and authentic instruments throughout all Member States without any intermediate proceedings needing to be brought in the Member State of enforcement prior to recognition and enforcement. The minimum standards mainly concern the requirements in the sphere of the provisions of delivery and information to the debtor.

The Regulation shall apply to judgments, court settlements and authentic instruments on uncontested claims. If an EU court judgment complies with the requirements of a European Enforcement Order as set out in European Enforcement Regulation (in particular Articles 5 and 6), it will be certified as a European Enforcement Order and then has to be recognised and enforced in Hungary without the need for the declaration of enforceability and without any possibility of opposing its recognition.

If an EU court judgment complies with the requirements of a European Enforcement Order, the enforcement will occur under the same conditions detailed above under Brussels I.

3) Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 on creating a European order for payment procedure

The purpose of the Regulation is to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims by creating a European order for payment procedure, and to permit the free circulation of European orders for payment throughout the Member States by laying down minimum standards, compliance with which renders unnecessary any intermediate proceedings in the Member State of enforcement prior to recognition and enforcement.

The procedure established by this Regulation should serve as additional and optional means for the claimant, who remains free to resort to a procedure provided for by national law. Accordingly, this Regulation neither replaces nor harmonises the existing mechanisms for the recovery of uncontested claims under national law.

This Regulation shall not prevent a claimant from pursuing a claim by making use of another procedure available under the law of a Member State or under Community law.

D. Average Duration of Enforcement Procedure

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

Answer: It is not possible to provide an estimation as to the duration of procedures, since there are many factors that could affect the duration of a specific procedure (e.g. delaying tactics from the debtor, need for official translation, notarization, available assets for enforcement etc.). Nonetheless, in our experience, an enforcement procedure takes at least 6 months and, in case of appeal, the procedure may be prolonged by an additional 6-12 months at least. It is not unprecedented that an enforcement procedure lasts for 3-4 years.

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. The court denies recognition of a foreign court judgment in the following cases.

EU Member States

Please see above under point I.C.2.

Not EU Member States

The enforceability of a judgement obtained in a non-EU Member State may be challenged if:

- (a) recognition of the judgment would violate Hungarian public policy;
- (b) the party against whom the judgment was made did not attend the proceedings in person or by way of a representative as the summons, statement of claim or other document on the basis of which the proceedings were initiated was not properly served at his domicile or residence in a way or in a timely fashion to allow him adequate time to prepare his defense;
- (c) a final judgment with respect to the same legal matter and factual background between the same parties has been rendered by a Hungarian court or other authority or proceedings have commenced with respect to the same legal matter and factual background between the same parties before a Hungarian court or other authority prior to the commencement of the foreign proceedings; or

(d) a final judgment with respect to the same legal matter and factual background between the same parties has been rendered by a court or other authority in a third jurisdiction prior to the date of the judgment of the court in the non EU Member State and the judgment rendered in a third jurisdiction complies with all requirements concerning enforceability in Hungary.

Please also note that certain specific bilateral or multinational international treaties may contain further specific rules on the denial of recognition of a foreign judgments.

B. Costs and expenses

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

Answer:

The following main costs and expenses can be expected:

- All costs relating to the enforcement procedure should be advanced by the creditor and finally borne by the debtor. If the enforcement is unsuccessful (i.e. the debtor has no assets, etc.), the costs advanced by the creditor will be sunk costs for the creditor.
- In a court enforcement procedure, the stamp duties payable in front of Hungarian courts fall in the range of 1% to 3% of the value of the claim, up to maximum HUF 750,000 (approx. EUR 2,300). (We note that in theory a request for enforcement under a judgement under Brussels I should be free of duty fee, however, the law itself still refers to the former Brussels I regulation and thus it is questionable whether or not a duty fee is payable)
Additionally, the appointed court bailiff would be entitled to:
 - a fee of HUF 161,000 (approx. EUR 495) plus 0,5 % of the amount exceeding HUF 10,000,000 (approx. EUR 30,605) up to the maximum amount of HUF 1,000,000 (approx. EUR 3,070);
 - costs and disbursements (equaling 50% of the court bailiff's fee referred to above);
 - success fee of HUF 700,000 (approx. EUR 2,150) plus the 3% of the amount exceeding HUF 10,000,000 (approx. EUR 30,605) up to the maximum amount of HUF 4,000,000 (approx. EUR 12,270); and
 - fee of the chamber of bailiffs, equaling 1% of the claim.

Other expenses, such as fees relating to obtaining documentation (costs of translation, post, company extract) shall be borne by the creditor.

III. FORMAL REQUIREMENTS

A. Time limit

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

Answer:

Under Hungarian law, the general length of the limitation period is five years. Please note however that the limitation period for the enforcement of a foreign court judgement will need to be assessed on the basis of the laws under which the judgement was issued. This means that if the judgement is not enforceable under the laws it was issued under due to the passing of the limitation period, it will not be enforceable in Hungary either.

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 yes, with some minor exceptions.

Generally, it is not possible to ask for the enforcement of a foreign court judgment before it is final and binding. There are, however, certain exceptions to this rule (mostly for provisional and precautionary measures) where either the foreign or the local court may declare that the decision is enforceable, irrespective of any appeal.

C. Necessary Requirements

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

Answer:

(a) Judgments from a non-EU Member State: The court issues a certificate of enforcement

a) on the basis of a judgement which contains an obligation (ruling against the debtor) in a civil case;

b) on the basis of a court-approved settlement;

c) when the deadline for performance has expired.

(b) Judgments from an EU Member State: According to Brussels I.

(c) Judgments from a country with which Hungary has an International Treaty: Different requirements may be stated in each treaty.

D. Other Formal Requirements: Court Fees

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

Answer: Yes, please see B.1) above.

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

Answer: Yes. The enforcement claim shall be filed using the official standard form request. Additionally, all documentation must be translated into Hungarian (official translation is needed), and an original and notarised (and apostilled, if applicable) judgement must also be presented. The authentication of the documents certifying the existence of the applicant and the respective specimen signatures shall also be made by notarisation and apostillisation of such documents.

IV. PROCEDURE

A. Competent court

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

Answer:

(a) Judgments from a non-EU Member State:

- The competent court is the local court operating at the seat of the relevant General Court¹ (in Budapest, the Buda Central District Court) where the debtor has a seat or residence or, in the absence of such, where the debtor has enforceable assets, or where the debtor has a branch or representative office.

- In case of arbitration awards, the General Court where the debtor has a seat or residence, or, in the absence of such, where the debtor has enforceable assets, or where the debtor has a branch or representative office.

(b) Judgments from an EU Member State:

¹General Court has competence countywide.

The local court operating at the seat of the relevant General Court (in Budapest, the Buda Central District Court) where the debtor has a seat or residence, or in the absence of such, where the debtor has enforceable assets, or where the debtor has a branch or representative office.

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:

(a) Judgments from a non-EU Member State:

The enforcement application requested from the claimant party shall contain:

- the instrument on which the enforcement application is based, (number and other data thereof),
- the assets of the debtor that can be seized, the localization and research measures necessary to ascertain the debtor's assets,
- the debtor's name (corporate name) and any data necessary for his identification (date of birth, mother's name, or company registration number etc.),
- depending on the circumstances of the case, the debtor's domicile, workplace or registered address, place of business (hereinafter referred to as "registered address"),
- in case of real estate: the real estate registration data shall be supplied.

(b) Judgments from an EU Member State:

In addition to the requirements detailed above, the requirements are governed by Brussels I (a certificate is needed in accordance with Annex I of Brussels I.)

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

Answer:

(a) Judgments from a non-EU Member State:

The judgment creditor shall enclose:

- the original of the judgement be executed (notarised and if applicable, apostilled); and,
- a Hungarian translation thereof if requested by the court.
- Proof of existence of the judgement creditor and specimen signatures evidencing the signing right on behalf of the judgement creditor (all (notarised and apostilled).
- If the judgment creditor does not have a place of residence in Hungary, a delivery agent shall also be designated, and the delivery agent and his declaration of acceptance shall be attached to the application.

(b) Judgments from an EU Member State:

- In addition to the requirements under (a), the certificate issued in accordance with Annex I of Brussels I.

D. Phases of the Procedure

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

Answer:

(a) Judgments from a non-EU Member State:

1. Starting the procedure for recognition and enforcement.
2. Exequatur procedure. Recognition of the foreign court decision by the Court. The Court examines that the foreign court decision is in compliance with the provisions of the Judicial Enforcement Act. Upon compliance with the provisions of the Act, the Court adopts a ruling of confirmation of enforcement in which the Court confirms that the decision may be enforced in accordance with Hungarian law in the same way as a local court (arbitration court) decision. The decision may be appealed.
3. Court declaration granting the enforcement. Appealable decision.
4. Procedure of the bailiff. (implementation of the enforcement; selling the assets by the bailiff, etc.)

(b) Judgments from an EU Member State:

Brussels I.

1. Starting the procedure for Enforcement

2. Exequatur procedure. The judgement is deemed to be recognized, unless there are grounds for refusal of recognition. Appealable decision.
3. Court declaration granting the enforcement. Appealable decision.
4. Procedure of the bailiff. (implementation of the enforcement; selling the assets by the bailiff, etc.)

Council Regulation (EC) No. 805/2004.

1. Starting the procedure for Enforcement
2. No exequatur procedure. A judgment which has been certified as a European Enforcement Order in the Member State of origin shall be recognized and enforced in the other Member States without the need for a declaration of enforceability and without any possibility of opposing its recognition.
3. Court declaration granting the enforcement. Appealable decision.
4. Procedure of the bailiff. (implementation of the enforcement; selling the assets by the bailiff, etc.)

E. Opposition of the Defendant

1. Can a defendant oppose an enforcement application?

Answer: Yes.

It is not prohibited for the defendant to oppose the enforcement application but, in practice, the defendant makes its statements against the enforcement application during the procedure for the legal remedies in connection with the enforcement order passed by the court (see the details in the answers to point F).

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

Answer: See the details in the answers to point F.

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: Yes.

The following legal remedies are available in connection with either the issuing of an enforcement appendix or during the enforcement procedure:

1) Legal remedies in connection with judicial enforcement

-Claim for withdrawal of certificate of enforcement and the claim for cancellation of the enforcement appendix

- Appeal in connection with the issuing of the certificate of enforcement and the enforcement appendix

2) Legal remedies concerning the implementation of enforcement

- Objection against the actions or omissions of the bailiff in connection with the enforcement

- Appeal concerning the implementation of any enforcement actions ordered by the court

- Request for judicial review concerning the decision of the court

3) Legal remedies by Public Prosecutors

4) Legal remedies according to the Code of Civil Procedure

- Correction of Court Decision
- Supplementary Decisions
- Enforcement Actions

2. Can this appeal suspend the enforcement?

Answer: Yes. The Court with which the legal remedies are lodged, may suspend the enforcement upon appeal – this is usually the case unless a state of necessity is evidenced.

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:

The costs of the enforcement procedure shall be advanced by the creditor and borne by the debtor. The bailiff may deduct these costs from the amount collected during the enforcement procedure.

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 movable and immovable property as well as claims and real property rights may be subject to enforcement by the court.

The following types of assets are exempt from enforcement:

- a) national welfare benefits, support allowance for war veterans, and the annuity provided according to the Act on the Compensation of Victims of Political Persecution;
- b) temporary aid (including those received for a specific purpose), social aid for the elderly, supplementary income allowance for the unemployed, and attendance allowance;
- c) maternity support;
- d) disability benefits and allowances for the blind;
- e) benefits of workers with some degree of incapacity and workers with health impairment (wage supplement, temporary wage supplement, income supplement, temporary income supplement, regular social allowance, temporary support, health impairment benefits provided to miners);
- f) support payments prescribed by law, including child support advanced by court, monetary support for child protection under the Act on Child Protection and Custody Administration;
- g) welfare provisions paid to foster parents for the support of children in state care;
- h) scholarship, with the exception of scholarships of advanced scientific training programs paid as wages [Paragraph d) of Section 66];
- i) cost reimbursement related to business trips, foreign assignment and commuting;
- j) payments for designated expenses;
- n) aid to the mentally impaired.

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer:

There are some specific bilateral or multinational treaties (e.g. treaties dealing with family law matters or child support, or regulating a specific area of law, e.g. maritime law, etc.) which may regulate the question of recognition and enforcement differently. Considering that this questionnaire deals with **general** commercial and civil matters, we did not cover the specific provisions of these special treaties.

Similarly, we have not covered in this questionnaire the enforcement of foreign arbitral awards (which occurs in compliance with the New York Convention).

Hungary

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