

Lorem ips

Enforcement of Foreign Judgments

Fundamental Principles [Serbia]

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 out of its Member States?	1
D. Average Duration of Enforcement Procedure	1
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	2
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?	2
B. Costs and Expenses	3
1. What kind of costs and expenses can a claimant expect in this enforcement procedure?	3
III. FORMAL REQUIREMENTS	3
A. Time Limit	3
1. Is there a time limit to apply for enforcement of a foreign court judgment?	3

B.	Final and Definitive Court Judgment: Provisional Enforcement	3
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 fulfil to be recognised and enforced?.....	4
D.	Other Formal Requirements: Court Fees.....	4
1.	Is it mandatory to pay court fees for this kind of application?	4
E.	Are there any other formal requirements in your country to enforce a court judgment?	4
IV.	PROCEDURE.....	4
A.	Competent Court	4
1.	Which court or courts are competent to decide an enforcement application?	4
B.	Informational Requirements for the Application to Enforce a Foreign Court Judgment	4
1.	What information must be contained in the enforcement application of a foreign court judgment?	4
C.	What documents must be included with/attached to the application to enforce a foreign court judgment?	5
D.	Phases of the Procedure	5
1.	What are the phases of the procedure to enforce a foreign court judgment?	5
E.	Opposition of the Defendant	5
1.	Can a defendant oppose this enforcement application?	5
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?	6
F.	Appeal and its Consequences in this Procedure	6

1.	Is it possible to appeal a court decision to recognise and enforce a foreign court decision?	6
2.	Can this appeal suspend the enforcement?	6
G.	Recovery of Judicial Costs and Expenses	6
1.	Are there any rules concerning recovery of the judicial costs incurred as a result of the enforcement application?	6
V.	RECOVERY OF THE DEBT	6
A.	Means of Enforcement.....	6
1.	What types of assets are subject to enforcement of the court's judgment?	6
VI.	OTHER ISSUES OF INTEREST IN YOUR JURISDICTION.	7
A.	Any other issues of interest in your jurisdiction	7

**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 rules are set out in Law on Enforcement and Security, in Part IV of Law on Resolving Conflicts of Laws with the Regulations of other Countries and in Part IX of Law on Arbitration.

Sources:

Law on Enforcement and Security:

https://www.paragraf.rs/propisi/zakon_o_izvršenju_i_obezbedjenju.html

Law on Resolving Conflicts of Laws with the Regulations of other Countries:

https://arhiva.mpravde.gov.rs/images/Law%20on%20resolving%20conflict%20of%20law_180411.pdf

Law on Arbitration: <https://www.wipo.int/edocs/lexdocs/laws/en/rs/rs028en.pdf>

C. Special Rules: European Union

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

Answer: /

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

Answer: /

D. Average Duration of Enforcement Procedure

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

Answer: The average length of time is 1 year.

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 domestic court will deny recognition of a foreign court decision:

- if it establishes, as a result of a review of an objection lodged by the person against whom the decision is passed, that such person was not able to participate in the proceedings due to procedural shortcomings;
- if it concerns a legal matter not falling within the exclusive jurisdiction of the court or another authority of the Republic;
- if a court or other authority of the Republic of Serbia has rendered an enforceable decision on the same cause of action or if another foreign court decision passed in relation to the same cause of action has already been recognised;
- if it is contrary to the foundations of the social system established by the Constitution of the Republic of Serbia;
- if reciprocity is lacking.

The acknowledgement and enforcement of a foreign arbitral decision may be rejected as requested by a party against which it is requested, only if such party should present evidence that:

- agreement on arbitration is not in effect as per the law that the parties have determined by agreement or as per the law of the state where such decision was made;
- the party against whom the foreign arbitral decision was made was not duly informed about the appointment of the arbitrator or the arbitral proceedings or for some other reason was not able to present its instruments;
- the foreign arbitral decision pertains to a dispute which has not been comprised by the arbitration agreement or the scope of such agreement has been overstepped by such arbitral decision. If only a part of the arbitral decision has overstepped the scope of the arbitration agreement, a partial refusal of recognition and enforcement of such arbitral decision is possible;

- the arbitration court or arbitral proceeding were not in accordance with the agreement on arbitration, or if there is no such agreement, in accordance with the law of the state in which the place of arbitration lies;
- the decision has not yet become binding for the parties, or such decision has been made annulled, or revoked by a court from the country where the decision was rendered or by the court from the country whose law was applicable to the dispute.

Competent court shall reject recognition and enforcement of a foreign arbitral decision if it should establish that:

- according to the Law of the Republic, the matter in dispute is not suitable for arbitration, or
- the effects of the decision are in collision with the public order in the Republic.

B. Costs and Expenses

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

Answer:

- Court fees
- Costs of copying documentation
- Lawyers' fees
- Public enforcement agent's fees

III. FORMAL REQUIREMENTS

A. Time Limit

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

Answer: Yes.

An enforcement application cannot be filed when 60 days expires after the enforcement creditor has obtained the right to submit a proposal in Serbia.

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.

C. Necessary Requirements

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

Answer: The judgment must be final and definitive, must be in merits, must regulate status, family and property relationships and other substantive relationships.

D. Other Formal Requirements: Court Fees

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

Answer: Yes.

- 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: The Basic or Commercial court in which territory the enforcement debtor has a domicile, residence or a seat, decides on the application for enforcement in the first instance. The appeal on decision of the Basic or Commercial court shall be decided by the High court or the Commercial Appeals Court.

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 information on:

- the enforcement creditor;
- the enforcement debtor;
- enforcement document
- determination of the enforcement instrument
- determination of enforcement debtor's obligation
- determination of the subject of the enforcement.

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

Answer: Applicant must attach to his application, a confirmation from the competent foreign court or another authority respectively that the decision is final and enforceable under the law of the country in which it was taken.

D. Phases of the Procedure

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

Answer: A foreign court judgment must be firstly recognised in non-contentious proceedings in Serbia. When a foreign court judgment is recognised, this judgment becomes equal with domestic court judgments, so the second step is enforcement procedure. Further, the enforcement court delivers a decision on enforcement to the enforcement debtor with a proposal of enforcement. The enforcement debtor can file an appeal on decision on enforcement which does not suspend enforcement.

The foreign court judgment can also be recognised during the enforcement procedure before the Serbian court.

The foreign court judgment can be recognised before the Serbian court as a preliminary question, and in that case, recognition of the foreign court judgment has effect only in procedure before that court. This situation requires the applicant to submit evidence on enforceability of the foreign court judgment under the law of the country whose court rendered the judgment.

E. Opposition of the Defendant

1. Can a defendant oppose this enforcement application?

Answer: Yes.

- 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 answer to II A above.

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.

- 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: Yes. The enforcement application must contain a request that the court obliges the enforcement debtor to recover the enforcement creditor's estimated costs of proceedings and a request to order the enforcement in order to settle the costs of the proceedings.

V. RECOVERY OF THE DEBT

A. Means of Enforcement

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

Answer: The assets of enforcement are the things and the rights of the enforcement debtor on whom the enforcement is performed. The assets of enforcement cannot be the things out of the commerce, objects, weapons and equipment intended for the defence and security of the Republic of Serbia.

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer: No.

Submitted by

	Contact 1	Contact 2 (optional)	Contact 3 (optional)
Contact Name:	Vedran Ćerić	Stefan Petrović	
Firm Name:	Karanovic & partners	Karanovic & partners	
Email:	Vedran.ceric@karanovicpartners.com	stefan.petrovic@karanovicpartners.com	
Phone #:	+3813955788	+38162648244	
Website:	https://www.karanovicpartners.com/	https://www.karanovicpartners.com/	