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# Enforcement of Foreign Judgments

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Fundamental Principles [Uganda]

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 Foreign Judgments (Reciprocal Enforcement) Act Cap 9 Laws of Uganda, and the Rules (Statutory Instrument No. 19-1) made thereunder regulate the enforcement in Uganda of judgments given in foreign countries which accord reciprocal treatment to judgments given in Uganda.

The Judgments Extension Act, Cap 12 Laws of Uganda provides for the execution by the courts of Uganda of decrees and warrants in court cases made and granted by the courts of Kenya, Malawi and Tanzania.

The Reciprocal Enforcement of Judgments Act Cap 21 Laws of Uganda, and the Rules (Statutory Instrument No. 21-1) made thereunder regulate the enforcement in Uganda of judgments made in the United Kingdom and other Commonwealth countries and the Republic of Ireland. It was subsequently extended to include the Seychelles, Mauritius, Swaziland and New South Wales.

The Arbitration and Conciliation Act, Cap 4 Laws of Uganda provides for enforcement of foreign arbitral awards.

**C. Special Rules: European Union**

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

**Answer:** N/A

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

**Answer:** N/A

**D. Average Duration of Enforcement Procedure**

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

**Answer:** Approximately 2-12 months depending on the Court's schedule and conduct of the parties.

**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, recognition and enforcement can be denied in Uganda basing on the following grounds; <sup>1</sup>

- 1) The judgment has been wholly satisfied;
- 2) The judgment could not be enforced in the country of the original court;
- 3) Lack of jurisdiction of the foreign court;
- 4) The judgment debtor was not duly served with notice of the proceedings in the foreign court;
- 5) Enforcement of the judgment would be contrary to public policy;
- 6) The rights under the judgment are not vested in the person by whom the application for registration was made;
- 7) The judgment was not final and conclusive on the issue;
- 8) The court gave judgment in breach of a jurisdiction or arbitration clause;
- 9) The judgment was obtained by fraud.

**B. Costs and expenses**

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

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<sup>1</sup> Section 3(1) and 5(1) of Cap 9, Section 2(2) of Cap 21

**Answer:** The claimant may incur the following costs;

- The Advocate's instruction fees for the court proceedings
- Court filing fees
- Court Bailiff's instruction fees for execution of the decree

### **III. FORMAL REQUIREMENTS**

#### **A. Time limit**

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

**Answer:** Under the Reciprocal Foreign Judgments Reciprocal Enforcement Act, a judgment creditor is required to file an application for leave in the High Court of Uganda to have the judgment registered in the High Court within six years from the date of judgment.<sup>2</sup>

Under the Reciprocal Enforcement of Judgments Act, an application for enforcement should be made within 12 months from the date of judgment.<sup>3</sup>

However, the time within which to apply to have a foreign judgment registered may be extended depending on the circumstances of each case.

Under the Limitation Act,<sup>4</sup> court orders must be executed within 12 years from the date on which the judgment became enforceable.

#### **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, the judgment must be final and conclusive between the parties.<sup>5</sup>

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<sup>2</sup> Section 3(1) of Cap 9

<sup>3</sup> Section 2(1) of Cap 21

<sup>4</sup> Section 3(3) of Cap 80

<sup>5</sup> Section 2(2)(a) of Cap 9

**C. Necessary Requirements**

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

**Answer:**

- There should ideally be a reciprocal arrangement between Uganda and the country in which the foreign judgment was made. The courts have however expanded this to include countries that may not have a reciprocal arrangement with Uganda.<sup>6</sup>
- The judgment should be conclusive and final between the parties.
- There must be payable, under the judgment, a sum of money not being a sum payable in respect of taxes<sup>7</sup>
- The judgment must be one granted by the superior courts of that particular country.
- The judgment should not have been wholly satisfied.
- The judgment should be capable of enforcement in the original court.<sup>8</sup>
- The judgment must be registered with the High Court.

**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:** The judgment creditor may be required to deposit security for costs for any application that may be brought to have the registration set aside.<sup>9</sup>

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<sup>6</sup> Christopher Sales V Attorney General, Civil suit no. 91 of 2011

<sup>7</sup> Section 2(2) of Cap 9

<sup>8</sup> Section 3(1) of Cap 9

<sup>9</sup> Rule 3 of S.I 9-1



Under the Judgments Extension Act, the plaintiff seeking to cause the arrest of the judgment debtor may be required, by the court, to deposit security to cover the costs in enforcing such an application.<sup>10</sup>

#### **IV. PROCEDURE**

##### **A. Competent court**

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

**Answer:** The High Court of Uganda.<sup>11</sup>

The Execution and Bailiffs Division of the High Court of Uganda currently handles executions proceedings. It is therefore the preferred 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 grounds on which the judgment creditor is entitled to enforce the judgment

An affidavit in support of the application which should contain:<sup>12</sup>

- A statement, according to the best knowledge and belief of the deponent, that the applicant is entitled to enforce the judgment;
- That, at the date of the application, the judgment has not yet been satisfied in part and if so satisfied in part, that there is an amount of money remaining unpaid;
- That, at the time of making the application, the judgment can be enforced by execution in the original court, and that if the judgment were to be registered, it would not be liable to be set aside;
- The amount of interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of registration;
- A statement as to the full names, title, trade, last known address and all the relevant details about the judgment debtor as well as the judgment creditor;

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<sup>10</sup> Section 3 of Cap 12

<sup>11</sup> Section 2(1) of Cap 21, section 3(1) of Cap 9, section 1 of Cap 12

<sup>12</sup> Rule 4(3) of S.I 9-1 and Rule 3 of S.I 21-1

- A statement of the amount payable under the judgment expressed in Uganda Shillings calculated at the current exchange rate.

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

**Answer:** A certified copy of the judgment issued by the original court and authenticated by its seal.<sup>13</sup>

A certified copy of the record of proceedings issued by the original court and authenticated by its seal.

Where the judgment is not in the official language, a translation of the judgment certified by a notary public or authenticated by an affidavit.

**D. Phases of the Procedure**

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

**Answer:** Please see Rules 4, 5, 7, 10 and 11 of Statutory Instrument No 9-1.<sup>14</sup>

- The judgment creditor files an application for leave to register the foreign judgment. supported by an affidavit before the High Court;
- The application is served upon the judgment debtor unless it is ex parte;
- The judgment debtor files an affidavit in reply;
- The application is then fixed for hearing and the parties argue the application in court;
- The court, if satisfied, then grants leave to register the judgment;
- The order must state the period within which an application may be made to have the registration set aside and shall contain a notification that the execution of the judgment will not be issued until after the expiration of that period;
- The judgment debtor is then served with the notice of registration of the judgment.

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<sup>13</sup> Rule 4(4) of S.I 9-1

<sup>14</sup> Rules 4, 5, 7, 10 and 11 of S.I 9-1

- Once the time within which an application to have the registration set aside has expired and no such application has been made, or where time has been extended and that extended time has expired, or where the application to have the registration set aside has been disposed of in favour of the judgment creditor, then the execution process ensues.

## **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:** Yes, and below are some of the reasons:<sup>15</sup>

- 1) Lack of jurisdiction of the foreign court;
- 2) The judgment debtor was not duly served with notice of the proceedings in the foreign court;
- 3) Enforcement of the judgment would be contrary to public policy;
- 4) The rights under the judgment are not vested in the person by whom the application for registration was made;
- 5) The judgment was not final and conclusive on the issue;
- 6) The court gave judgment in breach of a jurisdiction or arbitration clause;
- 7) The judgment was obtained by fraud.

## **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:** No, the only remedy available under the law is to set aside the registration of the foreign judgment.<sup>16</sup>

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<sup>15</sup> Section 5(1) of Cap 9, section 2(2) of Cap 21

<sup>16</sup> Section 5 and 6 of Cap 9, Rule 10 of S.I 9-1, Rule 12 S.I 12-1

**2. Can this appeal suspend the enforcement?**

**Answer:** Yes, an application to set aside the registration suspends the enforcement and execution of the judgment.<sup>17</sup>

**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 claimant will be entitled to reasonable costs of and incidental to the registration of the judgment.<sup>18</sup>

**V. RECOVERY OF THE DEBT**

**A. Means of Enforcement**

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

**Answer:** Any movable or immovable property belonging to the judgment debtor within the territory of Uganda.

**VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION**

**A. Any other issues of interest in your jurisdiction**

**Answer:** The current laws limit the countries from which foreign judgments can be enforced in Uganda to only those with reciprocal arrangements with Uganda. However, the courts have expanded the scope to include judgments issued by a competent court from any country even when it has no reciprocal arrangement with Uganda.<sup>19</sup>

***Submitted by***

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<sup>17</sup> Section 3(2) of Cap 9, Rule 11(2) of S.I 9-1, Rule 12 of S.I 12-1

<sup>18</sup> Section 3(6) of Cap 9

<sup>19</sup> Christopher Sales V Attorney General, Civil Suit No. 91 of 2011

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