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Armenia

Enforcement of Judgments in Civil and Commercial Matters

Contributor

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in Armenia.

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Armenia: Enforcement of Judgments in Civil and Commercial Matters

1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

The Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (7 October 2002),

The Minsk Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases (22 January 1993),

Armenia has also signed a number of bilateral agreements with different states regulating specific aspects of the recognition and enforcement procedure. If no bilateral or multilateral agreement is applicable under the Code of Civil Procedure, judgments are recognised and enforced based on the principle of reciprocity (which is presumed to be present).

2. What, if any, reservations has your jurisdiction made to such treaties?

The Republic of Armenia signed the above-mentioned conventions with a reservation.

According to the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters of 22 January 1993 Minutes; point 8, article 221;

"The prosecutor of one of the Contracting Parties has the right to apply to the prosecutor of the other Contracting Party, requesting to initiate a case in court regarding the protection of the rights and legal interests of citizens of the requesting Contracting Party, to participate in the investigation of such cases, or to file a cassation or private appeal to a higher instance court, as well as to court decisions in such cases".

The Republic of Armenia undertakes to fulfil the requirements of the norm of Article 221 of the Convention provided for in Clause 8 of the Protocol to the extent that they do not contradict the legislation of the Republic of Armenia.

3. Can foreign judgments be enforced in your

jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

According to Armenian legislation, foreign judgements can be enforced based not only on an international treaty, convention or arrangement but also on reciprocity, and the presumption of reciprocity applies unless proven otherwise.

It is worth to mention that without the existence of an international agreement or reciprocity, the following are recognised:

- 1) judicial acts regarding the legal status of persons.
- 2) foreign judicial acts on divorce or annulment of marriage between foreign citizens.
- 3) Foreign judicial acts regarding divorce or annulment of marriage between citizens of the Republic of Armenia or between citizens of the Republic of Armenia and foreign citizens or stateless persons.
- 4) law may foresee other such acts (no such exception is regulated as of the date of drafting).

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

According to the RA Civil Procedure Code, a foreign judicial act is considered a **final judicial act** adopted by a judicial body of another state, regardless of its name, which has **legal force** in the state where it was made, including settlement agreements, court orders and payment orders issued by a foreign court., judgments made in criminal proceedings regarding compensation for damage caused by crime, the decisions of a foreign court on securing a claim.

A foreign judicial act is subject to recognition and enforcement in the Republic of Armenia if the **dispute resolved by that act is considered civil under the legislation of the Republic of Armenia** unless otherwise stipulated by the relevant international agreement of the Republic of Armenia.

Based on the above, foreign judgment has to be final, shall have legal force in the state where it was made, and the dispute resolved by that act must be considered civil under the legislation of the Republic of Armenia,

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

Recognition and enforcement proceedings are carried out in accordance with the general rules of civil procedure as set out in the Code of Civil Procedure; in particular, foreign judgments are recognised and enforced based on an application brought by the interested party.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

Recognition and enforcement proceedings are carried out in accordance with the general rules of civil procedure as set out in the Code of Civil Procedure, in particular.

Foreign judgments are recognised and enforced based on an application brought by the interested party.

- The parties entitled to bring such applications are identified in Article 350 of the code; in particular, they include parties whose rights and obligations have been affected by the foreign judgment.
- Applications may be presented by the person in whose favour the foreign judgement was issued, the foreign court that issued an act regarding the confiscation of state fees to the benefit of the state budget of the respective foreign state, or the state authorities of Armenia and foreign countries, provided that they operate in accordance with the law and international agreements.
- The application for recognition and enforcement must include information on the name of the court to which the application is submitted, details on the applicant, the name of the foreign court that issued the decision, the motives for requesting recognition and enforcement, and other details. If the Armenian court adopts a decision which enters into force, the applicant can request it to send an executive shit for mandatory enforcement of the decision, based on which the Compulsory enforcement service will initiate proceedings and take the necessary steps for the due

performance of the judgement.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

The foreign judgement must be submitted in original hard copy or a copy certified by the foreign court. A translation of the documents verified by a notary is required as well.

A document certified by a foreign court that the judicial act has entered into legal force must be submitted with the application if this does not follow the content of the judicial act.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

The court examines the application for the recognition and enforcement of the foreign judicial act and decides on it within a reasonable time.

The court's decision is published following the procedure established by the RA Civil Code for publication of the decision. It enters into legal force seven days after publication unless an appeal is filed against it within this period.

The court that made the decision to recognise and allow execution of the foreign judicial act after it enters into force sends an executive shit to the enforcement service within three days.

The enforcement officer makes a decision on initiating enforcement proceedings within three days after receiving the executive shit from the court electronically

The process of recognition and enforcement of foreign judgments usually takes about one year from filing the application and initiating the completed enforcement proceedings.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while the enforcement or registration procedure takes place?

Upon motion of the person having filed an application on recognising a foreign judicial act and permitting execution thereof, the court examining the application

shall take measures for ensuring execution of a foreign judicial act by observing rules prescribed by Chapter 13 of this Code.

The security measures are as follows.

- imposing arrest (freezing) on the property of the defendant to an amount equal to the cost of the claim;
- prohibiting certain actions of the defendant;
- prohibiting certain actions of other people concerning the object of the dispute (i.e., to prohibit selling or donating or in any other manner alienating the disputed property);
- obliging the defendant or other persons to perform certain actions relating to the subject of the dispute (i.e., to oblige the defendant to provide a copy of the keys to the disputed appartement);
- preventing the sale of the property, where a claim has been filed on releasing the property from attachment;
- imposing arrests (freezing) on the property that belongs to the claimant and is at the disposal of the defendant;
- other measures for securing the claim as prescribed by the CPC.

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

A foreign judicial act subject to compulsory enforcement may be submitted to the competent court of the Republic of Armenia for recognition and enforcement within three years from the moment the foreign judicial act enters into legal force.

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

Under Article 356, paragraph 2 of the Civil Procedure Code, a decision on the recognition and enforcement of a foreign judgement may be appealed to the Civil Court of Appeal seven days after publication.

As the current legislation does not provide specific grounds for appeal of such decisions, the grounds for appeal are as follows:

- Violation or erroneous application of the norms of substantive law.
- Violation or erroneous application of the

norms of procedural law.

- Newly discovered facts or new circumstances.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

During the examination of the case, the court focuses solely on whether the foreign judicial act meets the standards established by the RA Civil Procedure Code and the RA international agreement on the recognition of foreign judicial acts without addressing the specifics of the judicial act itself.

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

The court cannot review the national jurisdiction of the foreign court.

However, under Article 354, paragraph 1 of the Code of Civil Procedure, the court must reject an application for recognition and enforcement of a foreign judgment if the case in which that judgment was issued does not fall within the international jurisdiction of the foreign court or falls within the exclusive jurisdiction of the Armenian courts.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

When applying to the court, RA legislation requires that proof of notification be attached. This means you must provide evidence that the party who did not attend the trial or their legal representative, was properly informed about the case. This proof is essential to demonstrate that the party had an opportunity to participate in the proceedings.

The RA legislation specifies reasons for which an application might be rejected if a party was deprived of participating in the trial. Essentially, if a party can show that they were not properly notified or otherwise deprived of the opportunity to participate in the trial, the legislation provides grounds for rejecting the application or challenging the validity of the proceedings.

So, courts are responsible for verifying that all parties involved in a case have been properly notified and given

the opportunity to participate in the trial.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

RA courts do not have discretionary powers to recognise or not to recognise foreign judicial acts because the law clearly lists the grounds, in the presence of which only the court can refuse to recognise a foreign judicial act, and if there are no legal grounds for refusal, then RA courts recognise foreign judicial acts

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

RA legislation does not indicate or clearly list the judicial acts that cannot be recognised in the RA territory; as such, the grounds for refusing recognition can be considered, for example, those judicial acts whose recognition and execution contradict the public order of the Republic of Armenia, or the judicial act is not enforceable according to the legislation of the state where it was made, or the case is not considered to be civil under Armenian law.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

As a rule, RA legislation has established that only judicial acts that have entered into legal force can be submitted for recognition and execution, so in this case, a judicial act that is under appeal and has not entered into legal force cannot be recognised and submitted for execution.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

Under Article 356, paragraph 2 of the Civil Procedure Code, a decision on the recognition and enforcement of a foreign judgement may be appealed to the Civil Court of Appeal.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at

what rate?

Within the framework of examination of the application for recognition and enforcement of a foreign judgment, the court has the right to examine and resolve exclusively the issue of recognition and enforcement of the foreign judgment, without changing the content.

20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

RA courts don't require a foreign judgement to be converted into local currency for the purposes of enforcement because the courts recognise judicial acts without discussing or modifying the content.

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

The responsibility for reimbursement of court costs related to the examination of applications provided for in Chapters 44-52 of the RA Civil Procedure Code, including applications for recognition and enforcement of foreign judicial acts, is placed on the applicant.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

In Armenia, third parties are permitted to fund enforcement actions. However, Armenian legislation does not impose specific restrictions on this practice, nor does it hold third-party funders liable for the costs incurred by the other side.

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The most notable development will be the introduction of private enforcement services, which is expected to accelerate and streamline the enforcement of court decisions. Additionally, there will be a shift towards allowing certain cases to proceed with execution without needing a court decision by directly applying to

enforcement services or obtaining a writ of execution from other entities, such as notaries.

24. Has your country ratified the Hague Choice of Courts Convention 2005? If not, do you expect it to in the foreseeable future?

The Republic of Armenia has not ratified the Hague Choice of Courts Convention 2005.

Armenia might consider ratifying the convention to align itself with international standards, improve its legal framework for international dispute resolution, and

attract foreign investment by providing greater legal certainty in cross-border disputes.

25. Has your country ratified the Hague Judgments Convention 2019? If not, do you expect it to in the foreseeable future?

The Republic of Armenia has not ratified the Hague Judgments Convention 2019.

Armenia might also consider how ratifying the convention could impact its economic interests and its relationships with other countries that are parties to the convention.

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