

LEXOLOGY®

Litigation: Enforcement of foreign judgments in Greece

Global, Greece | September 13 2017

Use the *Lexology Navigator* tool to compare the answers in this article with those from other jurisdictions.

General framework

Domestic law

Which domestic laws and regulations govern the recognition and enforcement of foreign judgments in your jurisdiction?

The domestic legislation governing the recognition and enforcement of foreign judgments in Greece is the Code of Civil Procedure. The key relevant provisions are:

- Article 323 relating to contentious proceedings;
- Sections 1-4 of Article 905 which govern the enforceability of foreign judgments; and
- Article 780 which refers to the effects of foreign judgments of voluntary (*ex parte*) proceedings.

However, where EU regulations (eg, the Brussels Recast Regulation (1215/2012) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) or international conventions and bilateral treaties are applicable, those instruments supersede the national provisions of the Code of Civil Procedure.

International conventions

Which international conventions and bilateral treaties relating to the recognition and enforcement of judgments apply in your jurisdiction?

The recognition and enforcement of foreign judgments in Greece is governed by EU regulations in cases where the judgment has been rendered in an EU member state. International conventions and bilateral treaties between Greece and non-EU countries may also apply as per their terms.

With respect to EU regulations, the Brussels Recast Regulation applies to EU judgments issued on or after January 10 2015, while its predecessor the Brussels Regulation (44/2001) applies to EU judgments issued before January 10 2015.

In addition, Greece has signed the following international conventions and bilateral treaties regarding the recognition and enforcement of foreign judgments (or other enforceable titles):

- Treaty between Yugoslavia (and its successor states) and Greece 1959, ratified by Law 4007/1959;
- Treaty between Germany and Greece 1961, ratified by Law 4305/1962;
- Treaty between Austria and Greece 1965, ratified by Law 137/1969;
- Treaty between Romania and Greece 1972, ratified by Law 429/1974;
- Treaty between Lebanon and Greece 1975, ratified by Law 1099/1980;
- Treaty between Bulgaria and Greece 1976, ratified by Law 841/1978;

- Treaty between Hungary and Greece 1979, ratified by Law 1149/1981;
- Treaty between Poland and Greece 1979, ratified by Law 1184/1981;
- Treaty between Czechoslovakia (and its successors) and Greece 1980, ratified by Law 1323/1983;
- Treaty between the Union of Soviet Socialist Republics (and its successors) and Greece 1981, ratified by Law 1242/1982;
- Treaty between Syria and Greece 1981, ratified by Law 1450/1984;
- Treaty between Cyprus and Greece 1984, ratified by Law 1548/1985;
- Treaty between Albania and Greece 1993, ratified by Law 2313/1995;
- Treaty between Tunisia and Greece 1993, ratified by Law 2228/1994;
- Treaty between China and Greece 1994, ratified by Law 2358/1995;
- Treaty between Georgia and Greece 1999, ratified by Law 2813/2000;
- Treaty between Armenia and Greece 2000, ratified by Law 3007/2002;
- Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations, ratified by Law 3171/2003 (multilateral);
- the New York Convention 1956 on the recovery abroad of maintenance, ratified by Law 4421/1964 (multilateral);
- Convention on the Contract for the International Carriage of Goods by Road, ratified by Law 559/1977 (multilateral);
- Convention Concerning International Carriage by Rail 1980, as amended by the Vilnius Protocol 1999 (multilateral), ratified by Law 1593/1986;
- the Brussels Convention 1969 on civil liability for oil pollution damage, ratified by Law 314/1976 (multilateral);
- the Hague Convention 1980 on the civil aspect of international child abduction, ratified by Law 2102/1992;
- EU Convention 1980 on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children, ratified by Law 2104/1992; and
- the Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters 2007 concerning recognition and enforcement of judgments originating from Switzerland, Norway and Iceland.

Competent courts

Which courts are competent to hear cases on the recognition and enforcement of foreign judgments?

In principle, the single-member first-instance court is competent to hear cases for the declaration of the enforceability of foreign judgments.

Distinction between recognition and enforcement

Is there a legal distinction between the recognition and enforcement of a judgment?

Yes. Under Greek law there is a clear legal distinction between the recognition and enforcement of a foreign judgment. ‘Recognition’ refers to the binding effects of foreign judgments which are automatically extended to Greece. For example, the *res judicata* effect need not be declared through a special procedure as recognition of a foreign judgment in Greece applies *ipso jure*, provided that the requirements set out under the Code of Civil Procedure (primarily Articles 323, 780 and 905(4)) are met.

‘Enforcement’ of a foreign judgment presupposes that the judgment is declared enforceable by the competent single-member first-instance court through the issuance of a relevant judgment according to Article 905 of the Code of Civil Procedure.

Ease of enforcement

In general, how easy is it to secure recognition and enforcement of foreign judgments in your jurisdiction?

Successful completion of the recognition and enforcement process generally depends on:

- the applicable legal framework (eg, the EU regulation, international convention or Code of Civil Procedure);
- the subject matter of the judgment; and
- the defences raised by the defendant.

In general, it is a simple process; however, if the interested party appeals the enforcement decision, complications may arise depending on the disputed matters of the case. With regard to recognition of foreign judgments in Greece, no judicial procedure is required, as recognition applies *ipso jure*. With regard to enforcement, foreign titles are declared enforceable following the submission of an application before the single-member first-instance court in an *ex parte* procedure, pursuant to Article 905 of the Code of Civil Procedure. Provided that the conditions set out in the relevant provisions of the Code of Civil Procedure are met, the courts will declare the foreign judgment enforceable. The enforcement decision is subject to appeal before the competent court of appeals. An extraordinary appeal can be filed to the Supreme Court only on specific points of law.

Reform

Are any reforms to the framework on recognition and enforcement of judgments envisioned or underway?

No reforms to the framework on recognition and enforcement of judgments are envisioned or underway.

Conditions for recognition and enforcement

Enforceable judgments

Which types of judgment (eg, monetary judgments, mandatory or prohibitory orders) are enforceable in your jurisdiction and which (if any) are explicitly excluded from recognition and enforcement (eg, default judgments, judgments granting punitive damages)?

Any act of a judicial body of a foreign state that resolves a dispute of private law can be recognised and enforced in Greece according to the relevant provisions. In principle, those provisions include all decisions of foreign civil state courts. Decisions of criminal or administrative courts are excluded unless they concern compensation under civil law. The crucial element is the nature of the foreign act as a judicial decision on a private law dispute. For the legal characterisation of a document as the judgment of a foreign civil court, the law of the country where the judgment was rendered is taken into account. Pursuant to EU regulations, all types of judgment rendered by an EU member-state court are enforceable in Greece.

How are foreign judgments subject to appeal treated?

A foreign judgment can be declared enforceable in Greece to the extent that it is enforceable in the state in which it was rendered – even if it is subject to appeal in that jurisdiction. Whether the foreign judgment (or part of it) is enforceable under the legislation of the foreign state is therefore crucial.

Formal requirements

What are the formal and documentary requirements for recognition and enforcement of foreign judgments?

The formal and documentary requirements for recognition and enforcement of foreign judgments in Greece depend on the relevant applicable legal framework. Where the provisions of an international treaty or EU regulation apply, such provisions supersede those of the Code of Civil Procedure.

With regard to recognition of foreign judgments, the principle of automatic recognition applies, provided that the substantive requirements set out in Articles 323, 780 and 905(4) of the Code of Civil Procedure are met. In practice, this means that the foreign judgment – officially translated into Greek – should be brought or submitted by the interested party before any authority in Greece.

With regard to enforcement of foreign judgments, the interested party must submit an application requesting that the foreign judgment is declared enforceable in Greece. The provisions governing the procedure are set out in Articles 740-781 of the Code of Civil Procedure (voluntary or *ex parte* jurisdiction). This application should be submitted only by the party to which the claim or right has been awarded by the foreign judgment. The application must contain all of the elements relating to the conditions for the declaration of enforceability of the judgment set out under the Code of Civil Procedure and be supported by relevant documentation. In principle, the interested party must be able to provide the enforcing Greek courts with:

- a complete duly certified copy of the foreign judgment also translated into Greek; and
- relevant documentation from the country of origin that the judgment is enforceable in the state in which it was rendered.

Substantive requirements

What substantive requirements (if any) apply to the recognition and enforcement of foreign judgments? Are enforcing courts in your jurisdiction permitted to review the foreign judgment on the merits?

Again, it is worth noting that where the provisions of an international treaty or EU regulation concerning a foreign judgment apply, such provisions supersede those of the Code of Civil Procedure. Therefore, the procedure will be governed by those instruments.

The substantive requirements that apply to the recognition of foreign judgments in Greece are set out in Articles 323, 780 and 905 of the Code of Civil Procedure. Specifically, and subject to other legal instruments, a foreign civil court judgment rendered under contentious proceedings has force and *res judicata* effect in Greece, without need for any other procedure, provided that:

- the judgment constitutes *res judicata* according to the law of the country in which it was issued (Article 323(1));
- the case, under Greek law, fell under the jurisdiction of the courts of the state to which the court that rendered the decision belongs (Article 323(2));
- the losing party has enjoyed equal opportunities concerning its right to defence and has not been deprived of this right (Article 323(3));
- the judgment is not contrary to a domestic Greek civil court judgment rendered in the same case and constituting *res judicata* between the same parties to the dispute over which the foreign judgment was also rendered (Article 323(4)); and
- the judgment is not contrary to good morals or public policy (Article 323(5)).

In addition, Article 780 of the Code of Civil Procedure sets out the substantive requirements for the recognition of foreign judgments rendered under the voluntary (*ex parte*) procedure. Subject to the relevant international treaties, the foreign judgment will be recognised in Greece provided that it:

- has applied the same substantive rules that would have been applicable under Greek private international law (Greek conflict rules) and has been rendered by a court which had jurisdiction under the law of the state whose substantive rules were applied; and

- is not contrary to good morals or public policy.

With regard to recognition of judgments relating to the personal status of a party, Article 905(4) of the Code of Civil Procedure provides further requirements.

Greek courts do not have the power to review a foreign judgment on the merits and cannot rule on whether the foreign court correctly applied the substantive law.

Limitation period

What is the limitation period for enforcement of a foreign judgment?

There is no limitation period for the enforcement of a foreign judgment in Greece under domestic legislation.

Grounds for refusal

On what grounds can recognition and enforcement be refused?

In principle, recognition and enforcement of a judgment can be refused by the Greek courts if the aforementioned conditions set out in Articles 323, 780 and 905 of the Code of Civil Procedure are not met.

Service of process

To what extent does the enforcing court review the service of process in the original foreign proceedings?

As noted above, under Article 323(3) of the Code of Civil Procedure, respect for the right to defence and the fact that the defendant has enjoyed equal opportunities in this regard are required for enforcement. The enforcing court will review the service of process in the foreign proceedings to ensure that these have been effected in accordance with the law of the country where the judgment was rendered.

Public policy

What public policy issues are considered in the court's decision to grant recognition and enforcement? Is there any notable case law in this regard?

Foreign judgments which are contrary to public policy will not be recognised and enforced in Greece. A foreign judgment will be considered to be contrary to public policy when its effect in the Greek territory is directly inconsistent with the fundamental principles of moral, state and economic order.

The reservation of public policy as a condition for the recognition of foreign judgments extends to both procedural and substantial issues. Violation of procedural public policy has often been found in connection with due service of process and the protection of the right to defence (eg, Supreme Court Judgment 2264/2014). Violation of substantial policy has been found in cases mostly related to the breach of fundamental human rights, including those entrenched in Article 6 of the European Convention on Human Rights, or the adoption of a foreign judgment based on illegal means of evidence (eg, Supreme Court Judgment 1666/2006).

Further, the courts may refuse to recognise foreign judgments in cases where they are irreconcilable with judgments handed down by the Greek courts in proceedings between the same parties and on the same facts (in light of a manifest breach of the *res judicata* principle).

Jurisdiction

What is the extent of the enforcing court's power to review the personal and subject-matter jurisdiction of the foreign court that issued the judgment?

Pursuant to Article 323(2) of the Code of Civil Procedure, the enforcing court will examine whether the foreign court was competent to adjudicate the case under the Greek international procedural law (the so-called 'mirror principle'). If the requirements of the foreign jurisdiction have not been met, the judgment may not be declared enforceable in Greece according to the code.

Concurrent proceedings and conflicting judgments

How do the courts in your jurisdiction address applications for recognition and enforcement where there are concurrent proceedings (foreign or domestic) or conflicting judgments involving the same parties/dispute?

Where there are concurrent proceedings involving the same parties and dispute, recognition and enforcement is possible in Greece pursuant to Articles 323 and 905 of the Code of Civil Procedure. However, if there are conflicting judgments involving the same parties and dispute, recognition and enforcement of the foreign judgment will not be accepted by the Greek courts pursuant to Articles 332 and 905, which explicitly provide that in such cases recognition and enforcement cannot be made.

Opposition

Defences

What defences are available to the losing party to a foreign judgment that is sought to be recognised and enforced in your jurisdiction?

Defences available to the losing party to a foreign judgment that is sought to be recognised and enforced in Greece relate mainly to the reasons for non-recognition and non-enforcement set out in Articles 323, 780 and 905 of the Code of Civil Procedure. Specifically, the defence will relate to whether:

- the judgment constitutes *res judicata* according to the law of the country in which it was issued (Article 323(1));
- the case, under Greek law, fell under the jurisdiction of the courts of the state to which the court that rendered the decision belongs (Article 323(2));
- the losing party has enjoyed equal opportunities concerning its right to defence and has not been deprived of this right (Article 323(3));
- the judgment is contrary to a domestic Greek civil court judgment rendered in the same case and constituting *res judicata* between the same parties to the dispute over which the foreign judgment was also rendered (Article 323(4)); or
- the judgment is contrary to good morals or public policy (Article 323(5)).

With regard to judgments rendered by an EU member–state court, defences are set out in Articles 45 and 46 of the Brussels Recast Regulation (1215/2012).

Injunctive relief

What injunctive relief is available to defendants (eg, anti-suit injunctions)?

Under Article 763(1) of the Code of Civil Procedure, judgments rendered under the voluntary (*ex parte*) jurisdiction are, in principle, immediately enforceable, and the deadline for filing an appeal does not suspend the force or enforceability of the judgment. However, under Article 763(2), the court hearing the case may – by its own initiative – suspend the force and enforceability until the judgment becomes final (ie, is no longer subject to appeal). Under Article 763(3), if an appeal has been filed, the court having issued the judgment or the presiding judge may – following an application by one of the parties to the trial in the first instance – order the suspension of the force and enforceability of the decision until a final judgment is rendered.

Recognition and enforcement procedure

Formal procedure

What is the formal procedure for seeking recognition and enforcement of a foreign judgment?

No formal procedure is required for the recognition of foreign judgments in Greece, provided that the conditions set out in Articles 323 and 780 of the Code of Civil Procedure are met.

Article 323 concerns judgments rendered in contentious proceedings and provides that such judgments have force and *res judicata* effect in Greece, without need for any other procedure, provided that:

- the judgment constitutes *res judicata* according to the law of the country in which it was issued (Article 323(1));

- the case, under Greek law, fell under the jurisdiction of the courts of the state to which the court that rendered the decision belongs (Article 323(2));
- the losing party has enjoyed equal opportunities concerning its right to defence and has not been deprived of this right (Article 323(3));
- the judgment is not contrary to a domestic Greek civil court judgment rendered in the same case and constituting *res judicata* between the same parties to the dispute over which the foreign judgment was also rendered (Article 323(4)); and
- the judgment is not contrary to good morals or public policy (Article 323(5)).

Article 780 applies to judgments rendered in voluntary (*ex parte*) proceedings and provides that, subject to the relevant international treaties, the foreign judgment will be recognised in Greece provided that it:

- has applied the same substantive rules that would have been applicable under Greek private international law (Greek conflict rules) and has been rendered by a court which had jurisdiction under the law of the state whose substantive rules were applied; and
- is not contrary to good morals or public policy.

With regard to enforcement, the interested party must submit an application before the competent single-member first-instance court requesting that the foreign judgment is declared enforceable according to Article 905 of the Code of Civil Procedure. A hearing date is then scheduled on which the applicant must submit pleadings with supporting documentation in *ex parte* proceedings.

Timeframe

What is the typical timeframe for the proceedings to grant recognition and enforcement?

The timeframe depends on the workload of the competent court. The hearing date is usually set within six to 12 months from submission of the application. The first-instance judgment declaring the enforceability is usually rendered within four to eight months from the hearing of the case.

Fees

What fees apply to applications for recognition and enforcement of foreign judgments?

The applicable court fees relate mainly to the submission of the relevant application for the declaration of enforceability of the foreign judgment before the competent court. These amount to approximately €300. The amount of legal fees depends on the specific agreement made between the lawyer and the client.

Security

Must the applicant for recognition and enforcement provide security for costs?

No.

Appeal

Are decisions on recognition and enforcement subject to appeal?

Yes, single-member first-instance court judgments on recognition and enforcement are subject to appeal before the competent court of appeals.

Other costs

How does the enforcing court address other costs issues arising in relation to the foreign judgment (eg, calculation of interest, exchange rates)?

The decision for the calculation of interest will be stipulated in the foreign judgment and depends on the substantive law applicable to the dispute at hand. The exchange rate to be applied is not defined by the courts, but rather is set by the applicable law.

Enforcement against third parties

To what extent can the courts enforce a foreign judgment against third parties?

In general, a foreign judgment is enforceable against only the parties to which it is addressed.

Partial recognition and enforcement

Can the courts grant partial recognition and enforcement of foreign judgments?

In general, foreign judgments are uniformly recognised and enforced by the courts in their entirety. However, partial recognition and enforcement of a foreign judgment is possible where not all parts thereof are enforceable under the applicable legal framework.

KLC Law Firm - Alexandros Tsirigos, Panagiotis Krystallis and Tasos Kollas

Powered by

LEXOLOGY.

