



Enforcement of Foreign Judgments Comparative Guide



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1. Legal and judicial framework

1. 1. Which legislative and regulatory provisions govern the recognition and enforcement of foreign judgments in your jurisdiction?

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The procedure for the recognition and enforcement of foreign judgments is regulated by the Code of Civil Procedure and the Law on Compulsory Enforcement of Judicial Acts.

1. 2. Which bilateral and multilateral instruments on the recognition and enforcement of foreign judgments have effect in your jurisdiction?

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In Armenia, foreign judgments are recognised and enforced based on bilateral and multilateral agreements. For instance, the recognition and enforcement of judgments issued by the judicial bodies of members of the Commonwealth of Independent States are regulated by:

- the Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (7 October 2002); and
- 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 on the basis of the principle of reciprocity.

1. 3. Which courts have jurisdiction to hear applications for the recognition and enforcement of foreign judgments?

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The first instance courts of general jurisdiction are competent to consider cases regarding the recognition of foreign judgments. Subsequently, enforcement proceedings are conducted by the Judicial Acts Compulsory Enforcement Agency of the Ministry of Justice.

Article 349 of the Code of Civil Procedure provides that the application for recognition and execution of a foreign judgment must be filed with the court at the place of residence of the debtor. If the debtor has no place of residence in Armenia or if its place of residence is unknown, the application must be filed with the court at the place where property belonging to the debtor is located. Where a foreign judgment by nature does not assume enforcement activity against a debtor or does not require enforcement, an application for recognition and execution should be filed with the court at the place of residence of the party filing the application. Where the application for recognition and execution has been filed with a non-competent court,

the latter must transfer it to the competent court as prescribed by Article 25 of the Code of Civil Procedure.

2. Requirements for enforceability

2. 1. What types of judgments may be recognised and enforced in your jurisdiction? Are any types of judgments specifically precluded from enforcement?

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Article 346 of the Code of Civil Procedure specifies two types of judicial decisions that may be recognised and enforced:

- final decisions, including conciliation agreements approved by a foreign court, judicial orders and orders on payment, and criminal judgments with regard to criminal cases involving compensation for damage incurred as a consequence of crime; and
- decisions on securing a claim.

Article 358(2) of the Code of Civil Procedure stipulates that judgments of foreign courts that do not require enforcement may be recognised by the Armenian courts without a court hearing. These include:

- judgments regarding the legal status of a person rendered by a court of the state in which that person is resident;
- foreign judgments on divorce between foreign citizens or declaring a marriage invalid;
- foreign judgments on divorce between citizens of Armenia and foreign citizens or persons with no citizenship, where one of the spouses at the time of divorce has been permanently or mostly residing in the territory of the state whose court has issued the judgment;
- judgments declaring invalid a marriage between citizens of Armenia and foreign citizens or persons without no citizenship, where the marriage was concluded in the territory of the state whose court has issued the judgment; and
- other foreign judgments in cases provided for by law.

2. 2. Must a foreign judgment be final and binding before it can be enforced?

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Within the meaning of Article 348 and Article 351, paragraph 2 of the Code of Civil Procedure, a foreign judgment (whether a final judgment or a decision on securing a claim) will be subject to recognition and/or enforcement if it has legal force in the state in which it was issued.

2. 3. Is a foreign judgment enforceable if it is subject to appeal in the foreign jurisdiction?

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The main condition for enforcement of a foreign judgment is its binding force. If there is an option of appeal

and the decision has not yet entered into force, it cannot be recognised in Armenia. However, if, within the meaning of the applicable foreign law of the country in which the decision was issued, the decision is considered to be in force irrespective of the possibility of appeal, it will be enforceable in Armenia.

2. 4. What is the limitation period for making an application for recognition and enforcement?

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A foreign judgment that is subject to enforcement may be submitted to a competent Armenian court for recognition and enforcement within three years of the date on which it entered into legal force according to the law of the foreign state in which it was issued.

3. Recognition and enforcement process

3. 1. Is recognition of a foreign judgment a separate process from enforcement and does it have separate legal effects?

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Where a foreign judgment is enforceable (not merely recognisable), the procedures for recognition and enforcement are interrelated.

In particular, the interested party must submit an application to the authorised court with a request to:

- recognise the foreign judgment; and
- allow enforcement of the foreign judgment.

Once the judgment has been recognised and permitted for enforcement by the authorised court, the judgment will be enforced by the Judicial Acts Compulsory Enforcement Agency.

3. 2. What is the formal process for recognition and enforcement?

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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, except for special rules set out in the sub-section entitled “Proceedings on cases brought upon applications on recognizing foreign judicial acts and allowing enforcement thereof”.

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 judgment 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 grounds 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 enforcement act for mandatory enforcement of the decision, based on which the Judicial Acts Compulsory Enforcement Agency will initiate proceedings and take the necessary steps for due performance of the judgment.

3. 3. What documents are required in support of an application for recognition and enforcement?

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According to Article 351, paragraph 2 of the Code of Civil Procedure, the following documents must be attached to the application for recognition and execution of a foreign judgment, unless otherwise provided for by international agreements to which Armenia is a signatory:

- the foreign judgment or a copy thereof certified by a foreign court;
- a document certified by a foreign court stating that the foreign judgment has entered into legal force, if this is not inferred from the content of the judgment;
- an official document stating the extent to which and the date from which the foreign judgment is subject to execution, if it has previously been executed;
- an official document stating that the party which has not participated in the proceedings or, if that party does not have procedural active legal capacity, the party's legal representative, has been notified of the time and venue of the court hearing;
- a letter of authorisation attesting to the powers of the representative, where the application is filed by the representative;
- a document attesting to the agreement of the parties regarding cases involving contractual jurisdiction; and
- duly certified Armenian translations of all necessary documentation.

3. 4. What fees are payable for recognition and enforcement?

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According to Article 9 of the Law on State Fees, the state fee for applications for the recognition and

enforcement of a foreign judgment is quadruple the basic duty – that is, AMD 4,000.

With regard to the process for mandatory enforcement of the judgment, the fees are usually paid by the debtor. If the process is based on a request of the creditor, the factual expenses of the process must be paid by the creditor, which will be equal to at least 1% of the amount that is subject to compensation.

3. 5. Is the applicant required to provide security for costs?

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According to Armenian law, the applicant is not required to provide security for costs.

3. 6. How long does it usually take to obtain a declaration of enforceability?

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According to Article 353 of the Code of Civil Procedure, the court will examine the application for recognition and enforcement of a foreign judgment and will issue a decision within a reasonable timeframe.

3. 7. Can the applicant seek injunctive relief while the process is ongoing?

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Under Article 352 of the Code of Civil Procedure, upon the motion of the person that has filed an application for recognition and enforcement of a foreign judgment, the court examining the application will take measures to ensure that the foreign judgment is enforced by observing the rules set out in Chapter 13 of the Code of Civil Procedure, which regulates the application of the security of the claim.

4. Defences

4. 1. On what grounds can the defendant challenge recognition and enforcement of a foreign judgment?

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There are no separate grounds for the defendant to challenge recognition and enforcement of a foreign judgment under the Code of Civil Procedure. However, as a general rule, the defendant can challenge the application on the grounds set out in Article 354 of the Code of Civil Procedure for rejection of an application for recognition of a foreign judgment (see question 5.6).

4. 2. What is the limitation period for filing a challenge?

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There is no specific limitation period for filing a challenge. However, as a general rule, the defendant may challenge the submitted application within two weeks of receiving the decision to commence proceedings on the basis of the application.

4. 3. Can the defendant seek injunctive relief to prevent enforcement while a challenge is pending?

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Neither the general rules of procedure nor the special rules on recognition and enforcement of foreign judgments impose any restrictions on lodging a motion to apply a counter-security (injunctive relief on the legal grounds mentioned in the challenge itself).

The decision on recognition and enforcement enters into force seven days after publication, unless an appeal is filed. Accordingly, in all cases where the decision is appealed in the manner prescribed under the law, it will not enter into force and thus there is no possibility of enforcement – that is, the interested party cannot apply to the court to issue an order to the Judicial Acts Compulsory Enforcement Agency.

5. Court analysis and decision

5. 1. Will the court review service of process in the initial proceedings?

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The Code of Civil Procedure sets out the grounds on which the local court can reject the application for recognition and enforcement. These mainly concern breach of the procedural norms by the foreign court, including the following:

- The foreign judgment has not entered into force based on the laws of the country in which it was issued;
- The judgment debtor was prevented from participating in the judicial proceedings;
- A judgment in a case between the same persons, on the same subject and grounds, has been issued by an Armenia court, or has been issued by another foreign court and been recognised by an Armenian court;
- A case between the same parties on the same subject was previously initiated before the Armenian courts;
- The case in relation to which the foreign court issued its judgment falls within the exclusive jurisdiction of the Armenian courts or did not fall within the international jurisdiction of the respective foreign court; or
- The judgment is not subject to enforcement according to the jurisdiction of the country in which it was issued.

5. 2. Will the court review the jurisdiction of the foreign court in the initial proceedings?

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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.

5. 3. Will the court review the foreign judgment for compliance with applicable law and public policy?

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Under Article 354 of the Civil Code of Procedure, the court must reject an application for recognition and enforcement of a foreign judgment where:

- recognition and enforcement would be contrary to the public order of Armenia; or
- the judgment is not subject to enforcement under the law of the state in which it was issued.

Hence, the court must review the enforceability of the judgment that is subject to enforcement under the applicable law of the state in which it was issued.

5. 4. Will the court review the merits of the foreign judgment?

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The court is not competent to review the merits of the foreign judgment, given that the judgment has already acquired binding force.

5. 5. How will the court proceed if the foreign judgment conflicts with a previous judgment in relation to the same dispute between the same parties?

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Under Article 354, paragraph 1.3 of the Code of Civil Procedure, the court will reject an application for recognition and enforcement of a foreign judgment where a decision has been issued by the Armenian courts, or has been issued by a foreign court and recognised by the Armenian courts, in a case between the same parties on the same subject matter and on the same legal grounds.

5. 6. Are there any other grounds on which the court may refuse to recognise and enforce the foreign judgment?

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The grounds on which the court may refuse recognition and enforcement of a foreign judgment are defined

in Article 354 of the Code of Civil Procedure. Under this article, the court will reject an application for recognition and enforcement where:

- the judgment has not entered into legal force under the law of the state in which it was issued;
- the judgment debtor was deprived of the opportunity to participate in the proceedings;
- a judgment in a case between the same persons, on the same subject and grounds, has been issued by an Armenian court, or has been issued by another foreign court and been recognised by an Armenian court;
- a case between the same parties on the same subject was previously initiated before the Armenian courts;
- the case in relation to which the foreign court issued its judgment falls within the exclusive jurisdiction of the Armenian courts or did not fall within the international jurisdiction of the respective foreign court;
- the case in which the judgment was issued does not fall within the international jurisdiction of the courts of that state;
- recognition and execution of the judgment would contradict the public order of Armenia; or
- the judgment is not subject to enforcement according to the jurisdiction of the country in which it was issued.

The court will further refuse recognition of foreign judgments that do not require enforcement under one of the grounds set out in points 1-7 of Article 354, part 1 of the Code of Civil Procedure.

5. 7. Is partial recognition and enforcement possible?

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If partial recognition of a foreign judgment is possible, the court may do so where the specific legal consequences of the foreign judgment are not provided for by Armenian law. Alternatively, where one of the grounds for rejecting recognition and enforcement of a foreign judgment as set out in Article 354, Part 1 of the Code of Civil Procedure exists, it is possible to recognise that part of the foreign judgment to which the ground for rejection does not apply.

5. 8. How will the court deal with cost issues (eg, interest, court costs, currency issues)?

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The state fees for recognition and enforcement of foreign judgments are allocated between the parties in proportion to the amount of the satisfied claim. In such cases the court addresses the issue of recognition and enforcement only, and cannot address unrelated issues, including outstanding issues that fall under the jurisdiction of the foreign courts, such as currency issues or interest.

6. Appeals

6. 1. Can decisions in relation to the recognition and enforcement of foreign judgments be appealed?

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Under Article 356, paragraph 2 of the Civil Procedure Code, a decision on the recognition and enforcement of a foreign judgment may be appealed to the Civil Court of Appeal. 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; or
- newly discovered facts or new circumstances.

6. 2. Can the applicant seek injunctive relief while the appeal is pending?

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Where an appeal is pending, injunctive relief as such is not available under Armenian law. Thus, in principle, there is nothing to prevent the applicant from enforcing the application while the appeal is pending. However, as explained in question 4.2, a first-instance decision cannot enter into force or be enforced where it has been duly appealed.

7. Enforcing the foreign judgment

7. 1. Once a declaration of enforceability has been granted, how can the foreign judgment be enforced?

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Once a decision on recognition and enforcement has been issued, the judgment creditor can apply to the court to request it to send the decision to the Judicial Acts Compulsory Enforcement Agency. On receipt, the latter will initiate enforcement proceedings.

The court that issued the decision on recognition and enforcement will also issue an enforcement act on the request of applicant. The applicant is entitled to submit such a request within one year of the date on which the decision on recognition and enforcement entered into force. The court will subsequently address the act to the Judicial Acts Compulsory Enforcement Agency, which will initiate enforcement proceedings and provide for performance of the foreign judgment in the manner prescribed by law.

7. 2. Can the foreign judgment be enforced against third parties?

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A foreign judgment cannot be enforced against third parties, as the Civil Procedure Code does not provide for this.

8. Trends and predictions

8. 1. How would you describe the current enforcement landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

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The recognition and enforcement of foreign judgments was not regulated in Armenia until the latest version of the Civil Procedure Code entered into force on 9 April 2018, so as yet there is little case law on the subject.

No legislative amendments or new legislation in this regard has been tabled by the authorities; but no predictions can be made past the next 12 months.

9. Tips and traps

9. 1. What are your top tips for smooth recognition and enforcement of foreign judgments, and what potential sticking points would you highlight?

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To accelerate recognition and enforcement of a foreign judgment, the provisions of Civil Procedure Code should be strictly observed – not only those relating to the application and the required documentation, but also those setting out the legal grounds for refusal of the application. Only if all of these conditions are met will it be possible to secure full satisfaction of the application within the shortest possible timeframe.



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