

# Enforcement of Foreign Judgments

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Fundamental Principles [Honduras]

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, it is possible.

**B. Applicable Law: General Rules**

- 1. Which laws are generally applicable to the enforcement of a foreign court judgment in your country?**

**Answer:** Civil Procedure Code, Book Six Forced Execution, Title Two Execution of Judicial Titles, Chapter III Foreign Execution Titles. Articles 753 to 756.

**C. Special Rules: European Union**

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

**Answer:** Yes, it regulates foreign enforcement titles in articles 753 to 756 of the civil procedures code.

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

**Answer:** Yes, Regulation (EU) No 1215/2012 of the European Parliament and of the Council, from December 12 2012, on judicial jurisdiction, recognition and enforcement of judicial decisions in civil and commercial matters.

**D. Average Duration of Enforcement Procedure**

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

**Answer:** 6 months.

## **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 Honduran Law establishes the minimum requirements to execute a foreign sentence, the absence of one of them could lead to deny a force execution.

- B. Costs and expenses**

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

**Answer:** This procedure begins with the recognition of the sentence so that it takes effect in Honduras and then must be executed like any national sentence. For the recognition also known as Auto Pariatis, approximately one thousand US dollars (US \$ 1,000.00) are charged for fees and for the execution 25% of the amount to be executed is charged.

## **III. FORMAL REQUIREMENTS**

- A. Time limit**

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

**Answer:** Yes, 10 years, as indicated by our civil code in article 2292: personal actions that do not have a special term, prescribe after ten years.

- 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:** the foreign Judgment to be executed must have the character of Res Iudicata, Definitive and Firm.

### **C. Necessary Requirements**

#### **1. What necessary requirements must the foreign court Judgment fulfill to be recognized and enforced?**

**Answer:**

- the judgement must have the authority of res judicata in the State in which it has been pronounced and it must have been dictated by the competent court according to the Honduran norms of international jurisdiction.
- the defendant against whom the judgement is intended to be executed would have been personally summoned, even if he was declared in default, he would have been guaranteed the possibility of exercising his right of defense, and he would have been notified of the resolution he intends to execute, all in accordance with the rules of the country of origin.
- the judgement has to have the necessary requirements to be considered as such, in the place where it was issued and the conditions of authenticity required by national law.
- the judgement must not affect the principles of public order of Honduran law, and the obligation it contains is of lawful compliance in Honduras.

### **D. Other Formal Requirements: Court Fees**

#### **1. Is it mandatory to pay Court Fees for this kind of application?**

**Answer:** No.

### **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 recognition of foreign titles of execution is the responsibility of the Supreme Court of Justice and the execution of all resolutions in general is the responsibility of the courts of the domicile of the convicted person. If he does not reside in Honduras, before the courts of the place where the thing to be delivered is found, or before the one designated by the performer for finding there the goods that were to be seized.

**B. Informational Requirements for the Application to Enfore a Foreign Court Judgement**

**1. What information must be contained in the enforcement application of a foreign court judgment?**

**Answer:** We must distinguish two moments, one is recognition and the other is the execution itself. The first is an action known to the Supreme Court of Justice, with the purpose of validating the sentence so that it can be executed in Honduras and the other is an execution of a recognized judicial title. To request recognition, the request must contain, the defendant or person against whom it must be executed, the title on which it is based, what it is intended to obtain and the executive actions that are interested.

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

**Answer:**

- (i) The title whose execution is intended must be accompanied
- (ii) As many documents as required by law, and those that the applicant considers necessary, useful or convenient for the proper development of the execution will be accompanied.
- (iii) The document proving the representation will be accompanied if another is the representative who acted in the first instance, and if it is the execution of arbitration titles.

**D. Phases of Procedure**

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

**Answer:**

- (i) Presentation of the brief
- (ii) Location of the opposite party
- (iii) Period of 5 days to formulate oppositions and propose evidence
- (iv) If proof is admitted, it must be practiced within a period not exceeding 10 days
- (v) The Court will issue a judgment within a period of 10 days



**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:**

- (i) Lack of jurisdiction of the Court before whom the execution is urged
- (ii) Lack of character, representation or legitimation of the performer or the executed
- (iii) Lack of legal requirements in the title
- (iv) Payment or fulfillment of the obligation, documentary justified
- (v) Plus petitio
- (vi) Prescription or expiration of the claim of execution
- (vii) Transaction or agreement of the parties, provided it is recorded in a public document

**F. Appeal and its Consequences in this Procedure**

**1. Is it possible to appeal a court decision to recognize and enforce a foreign court decision?**

**Answer:** The recognition cannot be appealed, the execution can.

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

**Answer:** the appeal can suspend the enforcement, but it does not avoid you from requesting provisional execution as established in article 702 of the Honduran civil procedure code.

**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, those referred to in articles 218 to 227, 746, 757 of the civil procedure code.

**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 personal asset that of the executed except those who are not subject to seizure.

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

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

**Answer:** No.

Honduras

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