

Enforcement of Foreign Judgments

Interim and Precautionary Measures [Honduras]

2020



TABLE OF CONTENTS

	Page
I. APPLYING FOR INTERIM AND PRECAUTIONARY MEASURES	1
1. Is it possible to apply for an interim measure in order to ensure the effective enforcement of a court decision?.....	1
2. Is it mandatory to pay court fees for this type of application?.....	1
3. What is the ordinary/average length of time for this kind of procedure?.....	1
II. TYPES OF INTERIM AND PRECAUTIONARY MEASURES	1
1. For which types of interim measures are the parties allowed to apply? (e.g., injunction, freezing orders, caveat, restraining order, etc).....	1
III. PROCEDURE	2
1. Competent Court.....	2
2. When can the application for interim and precautionary measures be submitted?	2
3. Is it possible to apply for interim precautionary measures before filing the underlying lawsuit? If YES: Are there any special requirements when so doing? (e.g., deadline to submit the lawsuit)	2
4. Is it possible to apply for interim precautionary measures after filing the main claim? If YES: Are there any special requirements when so doing?.....	2
5. Criteria used by the court for granting these measures	3
6. Procedure	3
7. Opposition of the defendant	4
8. Appeal.....	4
IV. EFFECTS AND VALIDITY OF INTERIM AND PRECAUTIONARY MEASURES.	5

1.	Is it possible to enforce the interim measure when the other party obstructs it?.....	5
2.	Is it possible to modify a previous interim measure?	5
3.	When is it possible to raise an interim measure?	5
4.	Are there any rules concerning the costs (e.g., lawyers' fees, etc.) related to the application?.....	5
V.	ARBITRATION	5
1.	Is it possible to apply for an interim measure in order to assure the effective enforcement of an arbitration award in your country? If YES: what is the enforcement procedure?.....	5
2.	Are the arbitrators, entitled to order an interim measure?	6
VI.	FOREIGN PROCEDURE & ARBITRATION	6
1.	Is it possible to apply for an interim measure before your country's courts in order to assure the effective enforcement of a foreign court decision or arbitration award? If YES: how is this procedure executed?	6
VII.	OTHER ISSUES OF INTEREST IN YOUR JURISDICTION	6
1.	Please state/provide any other issues of interest in your jurisdiction.....	6

I. APPLYING FOR INTERIM AND PRECAUTIONARY MEASURES

1. Is it possible to apply for an interim measure in order to ensure the effective enforcement of a court decision?

Answer: Yes it is possible.

2. Is it mandatory to pay court fees for this type of application?

Answer: No.

3. What is the ordinary/average length of time for this kind of procedure?

Answer: Approximately one month.

II. TYPES OF INTERIM AND PRECAUTIONARY MEASURES

1. For which types of interim measures are the parties allowed to apply? (e.g., injunction, freezing orders, caveat, restraining order, etc)

Answer:

The freezing of assets

The general prohibition of arranging or celebrating acts and contracts on specific assets

The intervention or judicial administration of productive assets

The kidnapping of movable or semoviente thing

The formation of inventories of goods, under the conditions provided by the court

The preventive annotation of the demand, and other registry annotations if the registry publicity is useful to guarantee compliance with the execution

The court order to provisionally cease an activity, temporarily refrain from conducting a conduct, or a temporary prohibition to interrupt or cease the performance of a benefit that was being carried out;

The intervention and deposit of income obtained through an activity that is considered illegal and whose prohibition or cessation is intended in the application

The temporary deposit of copies of the works or objects that are considered to be produced in violation of the rules on intellectual and industrial property, as well as the deposit of the material used for its production and the consignment or deposit of the amounts claimed in concept of remuneration of intellectual property
The suspension of contested social agreements

III. PROCEDURE

1. Competent Court

(a) Which court has jurisdiction to grant these interim and precautionary measures?

Answer: It will be competent for the adoption of the precautionary measures the judge or court that must know of the subsequent process or the one that is knowing in the instance or resource in which they have to agree.

2. When can the application for interim and precautionary measures be submitted?

Is it possible to apply for it at the time the underlying lawsuit is filed? If YES: Are there any special requirements when so doing?

Answer: Yes, you can apply for it along with the lawsuit, there are no special requirements.

3. Is it possible to apply for interim precautionary measures before filing the underlying lawsuit? If YES: Are there any special requirements when so doing? (e.g., deadline to submit the lawsuit)

Answer: Yes it is possible to request the precautionary measures before, but they will expire if the lawsuit is not presented within ten (10) days after the measures have been applied.

4. Is it possible to apply for interim precautionary measures after filing the main claim? If YES: Are there any special requirements when so doing?

Answer: Yes, it is also possible to request precautionary measures after the main claim, there is no special requirement.

5. Criteria used by the court for granting these measures

What requirements must be fulfilled in order to apply for an interim measure? (e.g. *periculum in mora*, *fumus boni iuris*, security, etc)

Answer: In order to decree the precautionary measures, it will be necessary: that the applicant duly justify that they are indispensable for the protection of their right due to the danger of injury or frustration before the final resolution, so that without the immediate adoption of the measure, the estimator judgment of the claim would be impossible or very difficult to execute. In addition, the applicant must justify his right, in a way that allows the judge, without prejudging the fund, to provisionally consider that the claim is well founded. Also the justification of the danger of injury or frustration in delay.

6. Procedure

(a) Which are the main steps of the procedure after filing the interim measure application? (e.g. holding a hearing, presenting evidence, etc.)

Answer: Once the request is accepted, the court will convene the parties to a preferential hearing that will be held within the fifth working day of the notification. At the hearing, both parties will briefly state what their right agrees. They may use whatever means of evidence they deem appropriate, if the judge agrees to their practice. After the hearing, the court immediately or within three (3) days will decide on the request for the measures. If the court agrees to the request, it will establish the precautionary measures that are agreed upon.

(b) Is it possible for the Court to order an interim measure without hearing the other party? (*in audita parte debitoris*). If YES, under what circumstances can the parties apply for it?

Answer: Yes, When the applicant proves that there are urgent reasons or that the hearing can compromise the success of the precautionary measure.

(c) What are the main steps of the procedure in this case?

Answer: The applicant requests that the measures should be adopted without the hearing of the opposing party. The court will adopt the measure within three (3) days from the admission of the request, reasoning separately about the concurrence of the requirements of the measure and the reasons that have been advised to agree without hearing from the counterparty.

7. Opposition of the defendant

(a) Is it possible for the defendant to oppose interim and precautionary measures?

Answer: Yes, it is possible for the accused to object.

(b) Is it possible for the defendant to ask the court for the substitution of the interim measure for a guarantee?

Answer: Yes, it is possible.

8. Appeal

(a) Are appeals allowed from the court decision ordering the measures or rejecting the defendant's opposition to them?

Answer: Yes appeals are allowed

(b) Is it possible to enforce the interim measure once an appeal is filed?

Answer: Yes, it is possible, since the appeal is without suspensive effect.

IV. EFFECTS AND VALIDITY OF INTERIM AND RECAUTIONARY MEASURES.

- 1. Is it possible to enforce the interim measure when the other party obstructs it?**

Answer: Yes it is possible.

- 2. Is it possible to modify a previous interim measure?**

Answer: Yes, it is possible when new facts or new knowledge arise, the court may ex officio or at the request of a party, modify the content of the agreed measure.

- 3. When is it possible to raise an interim measure?**

Answer: Once the acquittal is issued, the court will agree on the immediate lifting of the precautionary measures. Or if the judgment partially estimates the claimant's claim, the court will decide on the maintenance, modification or lifting of the measure with a hearing of the parties.

- 4. Are there any rules concerning the costs (e.g., lawyers' fees, etc.) related to the application?**

Answer: Yes, in the application, as a general rule, the provision of enough bail will be offered, which serves to guarantee the payment of the costs caused in the incident, as well as the compensation of the damages caused to the accused by its adoption and compliance.

V. ARBITRATION

- 1. Is it possible to apply for an interim measure in order to assure the effective enforcement of an arbitration award in your country? If YES: what is the enforcement procedure?**

Answer: Yes it is possible, the adoption of the pertinent measures can be applied to the competent judge, the procedure will be the same for the execution of any sentence.

- 2. Are the arbitrators, entitled to order an interim measure?**

Answer: No, only judges can do it.

VI. FOREIGN PROCEDURE & ARBITRATION

- 1. Is it possible to apply for an interim measure before your country's courts in order to assure the effective enforcement of a foreign court decision or arbitration award? If YES: how is this procedure executed?**

Answer: Yes, it is possible. Whoever proves to be a party to arbitration proceedings in another State, may request from the Honduran courts to adopt precautionary measures regarding assets located or acts that are being carried out in Honduras, in accordance with applicable international treaties and conventions. Then it follows the normal procedure.

VII. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

- 1. Please state/provide any other issues of interest in your jurisdiction**

Answer: There are no other additional topics of interest.

Honduras

Submitted by
Benito Zelaya
LEXINCORP Honduras
bzelaya@lexincorp.com
www.lexincorp.com