

Enforcement of Foreign Judgments

Fundamental Principles [Indonesia]

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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: In principle, foreign court judgments are not enforceable in Indonesia.

B. Applicable Law: General Rules

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

Answer: The Indonesian legal system follows the tradition of the Civil Law system and as stated above (see *Question I.A.1*).

Judgments rendered by a foreign court cannot be enforced by Indonesian Courts within the territory of Indonesia. Therefore, foreign cases must be re-claimed or re-litigated in the competent Indonesian Courts. In such case, the foreign court judgment may serve as *prima facie* evidence. However, this will be subject to judges' assessment and certain restrictions as regulated by the relevant Indonesian regulations.

C. Special Rules: European Union

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

Answer: Indonesia is not party to any multilateral or bilateral treaties with other countries for the reciprocal recognition and enforcement of foreign judgments. Furthermore, across the provinces of Indonesia which are autonomous regions, with a uniform system of laws and regulations, the same procedures for dispute resolution are applicable throughout the country.

The only exception for the enforcement of foreign court judgment is in Article 724 of the Indonesian Commercial Code which relates to the calculation of damages arising from the carriage of goods by sea. The article stipulates that:

Calculation and division of general damages is based upon a request by the shipmaster and experts. The experts are appointed by parties or by a judge within its legal territory upon which such calculation and division must be drawn up. The experts must be sworn-in prior to the execution of their duties. The division must be legalized by a judge within its jurisdiction.

Outside the territory of Indonesia, the general damages are drawn up by the relevant competent foreign authority.

Therefore, with the exception of foreign judgments relating to the calculation and division of general damages in relation to the carriage of goods by sea, foreign judgments cannot be enforced in Indonesia

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

Answer: Indonesia is not a member of the European Union. While it is a member of the Association of Southeast Asian Nations (ASEAN), there is no existing multilateral or bilateral treaties to which Indonesia took part in for the recognition and enforcement of foreign court judgments.

D. Average Duration of Enforcement Procedure

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

Answer: Not applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

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, Indonesian Courts shall deny the recognition and enforcement of a foreign court judgment in Indonesian territory by conforming to Article 436 of the RV. However, in case that the case is re-claimed or re-litigated in the competent Indonesian Courts, the foreign judgment will be recognized as a *prima facie* evidence (subject to judges' assessment and restrictions from certain relevant Indonesian regulations). As evidence, since the foreign judgment is made outside the territory of Indonesia, it must be legalized as a point of law in its country of origin, then legalized by an Indonesian diplomatic representative within the country of origin.

B. Costs and expenses

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

III. FORMAL REQUIREMENTS

A. Time limit

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

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: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

C. Necessary Requirements

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1 and II.A*).

D. Other Formal Requirements: Court Fees

1. Is it mandatory to pay court fees for this kind of application?

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

E. Are there any other formal requirements in your country to enforce a court judgment?

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

IV. PROCEDURE

A. Competent court

1. Which court or courts are competent to decide an enforcement application?

Answer: As stated above, Indonesian courts are not bound by foreign court judgment. A party who has been rendered a foreign judgment is still required to file a lawsuit (re-litigate) against its Indonesian counterpart before an Indonesian Court. In case of re-litigation, the rules regarding the competent court shall follow Article 118 of *Het Herziene Indonesisch Reglement* ("**HIR**") for cases within Java and Madura Island and/or Article 142 of *Reglement Tot Regeling Van Het Rechtswezen In De Gewesten Buiten Java En Madura* ("**RBG**") for cases outside Java and Madura Island. In principle, the competent court shall be the district court whose jurisdiction covers the defendant's domicile—subject to certain conditions under Article 118 of HIR and Article 142 of RBG.

B. Informational Requirements for the Application to Enforce a Foreign Court Judgment

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

D. Phases of the Procedure

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

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A. 1*).

E. Opposition of the Defendant

1. Can a defendant oppose to this enforcement application?

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia in the first place (see *Question I.A.1*).

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: There are number of reasons for the defendant to oppose to the enforcement of foreign court judgment in Indonesia. As stated earlier, Indonesia follows the tradition of the Civil Law system, as such the Indonesian regulations will prevail and govern each proceeding. In this instance, the Article 436 of the RV has strictly prohibit the enforcement of foreign judgment in Indonesian territory.

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: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A.1*).

2. Can this appeal suspend the enforcement?

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A.1*).

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: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A.1*).

V. RECOVERY OF THE DEBT

A. Means of Enforcement

1. What types of assets are subject to enforcement of the court's judgment?

Answer: Not Applicable. Foreign judgments are not enforceable in Indonesia (see *Question I.A.1*).

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer: Since Indonesian courts are not bound by the foreign court judgment, the judges shall have the authority to re-examine all facts and legal analysis within the foreign court judgment. Therefore, even if the foreign court judgment is presented as evidence, the weight or the value of such foreign court judgment shall depend on the examining judges' assessment.

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