

Enforcement of Foreign Judgments

Fundamental Principles [Japan]

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.

B. Applicable Law: General Rules

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

Answer:

1. Code of Civil Procedure, Article 118
2. Civil Execution Act, Articles 22(vi) and 24

C. Special Rules: European Union

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

Answer: No.

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

Answer: Not applicable

D. Average Duration of Enforcement Procedure

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

Answer: It often takes more time than normal litigation when defendant thoroughly contests.

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 action seeking an execution judgment (“*Shikko Hanketsu*”) for a foreign court judgment will be dismissed when it is not proved that the foreign court judgment has become final and binding or when such judgment fails to satisfy the following requirements (Civil Execution Act, Article 24, paragraph 3 and Code of Civil Procedure, Article 118):

- (i) The jurisdiction of the foreign court is recognized under laws or regulations or conventions or treaties;
- (ii) The defeated defendant has received service (excluding a service by publication or any other service similar thereto) of a summons or order necessary for the commencement of the suit, or has appeared without receiving such service;
- (iii) The content of the judgment and the court proceedings are not contrary to public policy in Japan; and
- (iv) Reciprocity of recognition of foreign court judgments exists (i.e., the foreign country recognizes a Japanese judgment under similar conditions).

B. Costs and expenses

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

Answer:

- 1. Court fees
- 2. Lawyers' fees
- 3. Translation fees
- 4. Costs of enforcement

III. FORMAL REQUIREMENTS

A. Time limit

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

Answer: Under the Civil Code, Article 174-2, the period of prescription of any right established in a judgment that is final and binding is 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: Yes. A judgment rendered by a foreign court should be “final and binding.”

C. Necessary Requirements

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

Answer:

- A foreign court judgment is enforceable when an execution judgment for such foreign court judgment is rendered and has become final and binding (hereinafter, a foreign court judgment together with an execution judgment therefor are referred to as “Title of Obligation”). A certificate of execution (“*Shikko Bun*”), which is granted by a court clerk upon petition, is also required.
- An execution judgment is rendered when (a) it is proved that a foreign court judgment has become final and binding and (b) such foreign court judgment meets all of the following requirements that are provided in the Code of Civil Procedure, Article 118:
 - (i) The jurisdiction of the foreign court is recognized under laws or regulations or conventions or treaties;
 - (ii) The defeated defendant has received [a]service (excluding a service by publication or any other service similar thereto) of a summons or order necessary for the commencement of the suit, or has appeared without receiving such service;
 - (iii) The contents of the judgment and the court proceedings are not contrary to public policy in Japan; and
 - (iv) Reciprocity of recognition of foreign court judgments exists.

D. Other Formal Requirements: Court Fees

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

Answer: Yes. At the filing of an action seeking an execution judgment for a foreign court judgment, payment is required in an amount according to the amount of claim (Act on Costs of Civil Procedure, Article 3, Appended Table 1, item 1).

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: An action seeking an execution judgment for a foreign court judgment is decided by the district court having jurisdiction over the location of the general venue of the obligor, and when there is no such general venue, by the district court having jurisdiction over the location of the subject matter of the claim or the seizable property of the obligor (Civil Execution Act, Article 24, paragraph 1).

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:

(1) Action seeking an execution judgment for a foreign court judgment

- Names and addresses of the obligee and the obligor
- Object of the claim and a statement of the claims
- Allegations that (a) A foreign court judgment has become final and binding and (b) such foreign court judgment meets all of the requirements that are provided in the Code of Civil Procedure, Article 118 (See III, C, 1, above.)

(2) Petition for grant of a certificate of execution (“*Shikko Bun*”)

- Names and addresses of the obligee and the obligor
- Title of Obligation

(3) Petition for compulsory execution

- Names and addresses of the obligee and the obligor
- Title of Obligation
- Property that is the subject matter of the compulsory execution
- Means of compulsory execution sought

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

Answer:

(1) Action seeking an execution judgment for a foreign court judgment

- Foreign court judgment
- Proof showing that a foreign court judgment is final and binding

(2) Petition for grant of a certificate of execution (“*Shikko Bun*”)

- Foreign court judgment with execution judgment
- Proof showing that an execution judgment is final and binding

(3) Petition for compulsory execution

- Foreign court judgment with execution judgment
- Certificate of execution (“*Shikko Bun*”)

D. Phases of the Procedure

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

Answer:

(1) Action seeking an execution judgment for a foreign court judgment

(2) Petition for grant of a certificate of execution (“*Shikko Bun*”)

(3) Petition for compulsory execution

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: Yes. The court shall not investigate whether or not the foreign court judgment is appropriate. The court judges (i) whether it is proved that the foreign court judgment has become final and binding and (ii) such judgment satisfies the requirements listed in the Code of Civil Procedure, Article 118 and so the opposition by the obligor is limited to above two points.

F. Appeal and its Consequences in this Procedure

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

Answer: Yes.

2. Can this appeal suspend the enforcement?

Answer: Yes.

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: There are no special rules regarding costs related to the enforcement of foreign court judgments, so the general rule is applicable:

(1) Action seeking an execution judgment for a foreign court judgment

- The defeated party bears the court costs (such as fees for filing a petition, postal fee; excluding attorneys' fees) (Code of Civil Procedure, Article 61).

(2) Petition for grant of a certificate of execution ("*Shikko Bun*")

- At filing, the fee in the amount of JPY 300 is required.

(3) Petition for compulsory execution

- The obligor must pay for the cost and expenses caused by the enforcement procedure (Civil Execution Act, Article 42).

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 and all property of the obligor at the commencement of execution, in principle.

VI. OTHER ISSUES OF INTEREST IN YOUR JURISDICTION

A. Any other issues of interest in your jurisdiction

Answer: None.

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