

GETTING THE
DEAL THROUGH 

Enforcement of Foreign Judgments 2015

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Estonia

Carri Ginter and Triin Toom

SORAINEN

1 Treaties

Is your country party to any bilateral or multilateral treaties for the reciprocal recognition and enforcement of foreign judgments? What is the country's approach to entering into these treaties and what if any amendments or reservations has your country made to such treaties?

Estonia has concluded multiple bilateral and multilateral treaties for the reciprocal recognition and enforcement of foreign judgments. As a member of the European Union (EU), Estonia is also subject to application of the EU regulations concerning the recognition and enforcement of judgments between EU member states.

The following EU legislation regulates the recognition and enforcement of foreign judgments in Estonia:

- Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings;
- Council Regulation No. 44/2001/EC on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (the Brussels I Regulation);
- European Parliament and the Council Regulation No. 805/2004/EC, creating a European Enforcement Order for uncontested claims;
- European Parliament and the Council Regulation No. 1896/2006/EC, creating a European order for payment procedure;
- European Parliament and the Council Regulation No. 861/2007/EC establishing a European Small Claims Procedure;
- Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (recast) (applicable starting from 10 January 2015);
- for relations between Denmark and other EU member states, the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 19 October 2005 applies; and
- for relations between Iceland, Norway and Switzerland and the EU member states, the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of the European Community with Iceland, Norway and Switzerland of 30 October 2007 (New Lugano Convention) applies.

Estonia has concluded legal assistance agreements with the following states:

- Agreement of the Republics of Estonia, Latvia and Lithuania on Legal Assistance and Legal Co-operation, signed on 11 November 1992, entered into force on 3 April 1994;
- Agreement of the Republic of Estonia and the Russian Federation on Legal Assistance and Legal Co-operation in Civil, Family and Criminal Matters, signed on 26 January 1993, entered into force on 19 March 1995;
- Treaty between Ukraine and the Republic of Estonia on Legal Assistance and Legal Relations in Civil and Criminal Matters, signed on 15 February 1995, entered into force on 22 November 1995; and
- Agreement on Provision of Legal Assistance and Legal Relationships in Civil and Criminal Matters between the Republic of Estonia and the Republic of Poland, signed on 27 November 1998, entered into force on 7 February 2000.

Foreign judgments are also recognised and enforced based on multilateral international treaties. The first conventions to which Estonia acceded were the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed in the Hague on 15 November 1965, the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters signed in the Hague on 18 March 1970 and the Convention on International Access to Justice signed in the Hague on 25 October 1980. Other multilateral treaties that Estonia is a party to include the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

In the re-establishment of the Estonian national legal system after restoration of independence, there was an urgent need to develop cooperation in legal assistance with neighbouring states, which resulted in the conclusion of bilateral legal assistance treaties. Also at that time, several other multilateral treaties were concluded. Following Estonia's accession to the EU, the recognition and enforcement of other EU judgments is regulated by EU legislation.

Estonia has made no amendments or reservations to the treaties mentioned above.

2 Intra-state variations

Is there uniformity in the law on the enforcement of foreign judgments among different jurisdictions within the country?

Estonia does not have a federal system, therefore, the same law and regulations apply throughout Estonia for the enforcement of foreign judgments.

3 Sources of law

What are the sources of law regarding the enforcement of foreign judgments?

Foreign judgments are recognised and enforced in Estonia on the basis of national legislation, primarily the Code of Civil Procedure (CCP), EU legislation or international treaties (see question 1).

The recognition and enforcement of judgments in civil and commercial matters of EU member states (except Denmark) is mainly regulated by Regulation No. 44/2001/EC. Therefore, judgments made in legal proceedings instituted and documents formally drawn up or registered as authentic instruments after 1 May 2004 (when Estonia became a member of the EU) are enforceable according to this regulation.

The CCP is applicable when there is no international treaty between Estonia and the issuing state and when the European regulations do not apply.

Arbitral awards of tribunals of foreign states are recognised and accepted for enforcement in Estonia pursuant to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The provisions of CCP regulating the recognition of foreign judgments correspondingly apply to the recognition and enforcement of arbitral awards, unless otherwise provided by the law or an international agreement.

4 Hague Convention requirements

To the extent the enforcing country is a signatory of the Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, will the court require strict compliance with its provisions before recognising a foreign judgment?

The Republic of Estonia is not a party to the Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters of 1971.

5 Limitation periods

What is the limitation period for enforcement of a foreign judgment? When does it commence to run? In what circumstances would the enforcing court consider the statute of limitations of the foreign jurisdiction?

The Estonian law does not prescribe specific limitation periods for the enforcement of foreign judgments. However, such judgments must still be enforceable in the state of origin for them to be given effect in Estonia, therefore, the enforcing court may consider the statute of limitations of the foreign jurisdiction. Also, Regulation (EC) No. 805/2004 provides that where a judgment certified as an EEO has ceased to be enforceable, a certificate indicating the lack of enforceability may be obtained from the court of origin.

The general limitation period for the enforcement of a judgment of an Estonian court is 10 years according to the General Part of the Civil Code Act.

6 Types of enforceable order

Which remedies ordered by a foreign court are enforceable in your jurisdiction?

Civil court judgments are enforceable subject to their recognition. Estonia also enforces other enforcement documents from abroad if they are considered enforcement documents in their home jurisdictions. Similar enforcement documents exist in Estonia and recognition is confirmed by an Estonian court.

For the purposes of the Council Regulation No. 44/2001/EC, the term 'judgment' means any judgment given by a court or tribunal of a member state, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

According to the CCP, a court award (judgment) is a ruling, or a judgment by which the court settles the dispute or procedural applications or other issues resulting from a court proceeding. Judgments must be distinguished from arbitral awards.

Both Regulation No. 44/2001/EC and the CCP regulate enforcement of judgments made in civil matters and do not apply to administrative matters. At the same time, if an administrative tribunal has correctly adjudicated a civil matter, there should not be any obstacles to its recognition and enforcement in Estonia.

Generally, all remedies are enforceable, unless they are contrary to public order or the fundamental principles of the Estonian law. For example, money judgments, arbitral awards and orders for specific performance are enforceable. Likewise, judgments in matrimonial, divorce and adoption matters are enforceable. Judgments in insolvency matters are also enforceable.

The recognition and enforcement of interim and permanent injunctions is subject to the general rules of recognition and enforcement in the CCP, therefore, unless it is stated otherwise by the CCP, EU regulations or international treaties, these remedies are enforceable.

7 Competent courts

Must cases seeking enforcement of foreign judgments be brought in a particular court?

On the basis of the CCP and the Council Regulation No. 44/2001/EC, the local jurisdiction is determined by reference to the place of domicile of the party against whom enforcement is sought, or to the place of enforcement.

8 Separation of recognition and enforcement

To what extent is the process for obtaining judicial recognition of a foreign judgment separate from the process for enforcement?

A court decision of a foreign state is recognised in Estonia without a need to conduct separate court proceedings. However, adjudication of its recognition may be requested for declaring a decision enforceable if there is a dispute on recognition or if it is necessary to a person due to another reason for the purpose of exercising his or her rights.

If adjudication of another court matter depends on the recognition of a court decision of a foreign state, the recognition may be decided by the court adjudicating such a court matter.

To enforce a judgment the proceedings for declaring the decision enforceable must be started. Unless otherwise provided by law or an international agreement, a court decision of a foreign state is subject to enforcement in Estonia only after the decision has been declared to be subject to enforcement by the Estonian court.

9 Defences

Can a defendant raise merits-based defences to liability or to the scope of the award entered in the foreign jurisdiction, or is the defendant limited to more narrow grounds for challenging a foreign judgment?

Upon adjudication of a petition for declaring a court decision of a foreign state enforceable, the court examines the prerequisites for recognition of the court decision. The court does not verify the correctness of the court decision on the merits of the matter.

However, there are several grounds for challenging the judgment. A court decision in a civil matter made by a foreign state is subject to recognition in Estonia, except in the case where:

- recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) and, above all, the fundamental rights and freedoms of persons;
- the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner, unless such a person had a reasonable opportunity to contest the decision and the person failed to do so within the prescribed term;
- the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court;
- the decision is in conflict with a decision of a foreign court in the same matter between the same parties, which has been earlier recognised or enforced in Estonia;
- the decision is in conflict with a decision made in a foreign state in the same matter between the same parties, which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia; or
- the court that made the decision could not make the decision in compliance with the provisions of Estonian law regulating international jurisdiction.

The possibilities of challenging a foreign judgment under the Brussels I Regulation (between EU member states) are also limited and the foreign judgment may not be reviewed as to its substance.

10 Injunctive relief

May a party obtain injunctive relief to prevent foreign judgment enforcement proceedings in your jurisdiction?

It is not possible to obtain injunctive relief to prevent foreign judgment enforcement proceedings. The interim relief is only available to the applicant to secure the petition. The court may apply interim measures in recognition and enforcement matters on its own initiative but usually only does so if this is applied for by the applicant.

However, the debtor may file an appeal against a ruling on declaring a foreign court decision to be subject to enforcement or a ruling on amendment of declaring such decision enforceable.

The enforcement proceedings can also be postponed or suspended. A bailiff may postpone an enforcement action on the basis of an application of an applicant or a court judgment. On the basis of an application

of a debtor, a court may suspend enforcement proceedings or extend or defer enforcement if continuation of the proceedings may be unjustified in respect of the debtor. Suspension of enforcement proceedings on the basis of a decision of bailiff is possible on several grounds.

A bailiff suspends enforcement proceedings:

- if the applicant applies;
- upon submission of a court judgment if, according to the judgment, the enforcement proceedings or the enforcement action must be suspended;
- upon submission of a court judgment if, according to the judgment, the enforcement action may be performed or the enforcement proceedings may be continued only against security;
- upon submission of a written certificate if it is evident from the certificate that the payment term of a claim filed for enforcement is postponed;
- if a debtor acquires restricted active legal capacity until a guardian is appointed to him or her;
- upon the death of the spouse or an ascendant or descendant or a sister or brother of a debtor, on the basis of an application as of the date of death for 30 days; or
- if a right entered in the land register in respect of an immovable, which is the object of enforcement proceedings, becomes evident provided that the right precludes or impedes sale of the immovable.

A bailiff may also suspend enforcement proceedings if a complaint is filed against the activities of the bailiff, the debtor becomes seriously ill, inpatient health services are provided to him or her, or the debtor is in compulsory military service or is participating in training exercises.

11 Basic requirements for recognition

What are the basic mandatory requirements for recognition of a foreign judgment?

A court decision of a foreign state is recognised in Estonia only if the decision has entered into force pursuant to the law of the state that made the decision unless, pursuant to law or an international agreement, such a decision is subject to recognition and enforcement as of the time such a decision can be enforced in the state of the location of the court that made the decision. The mandatory requirements for recognition of a foreign judgment are increasingly being minimised between EU countries. Only for a limited list of reasons can the court refuse to recognise a foreign judgment (see question 9).

When submitting an application for declaration of enforcement of a judgment made by a foreign state other than a member state of the EU, in addition to the certified copy of the judgment the following are required:

- documents that confirm that a claim, summons or other document initiating the proceeding have been served in time on at least one occasion, pursuant to the law of such a country, on the debtor who did not participate in the proceeding;
- documents that certify that the judgment has entered into force pursuant to the law of the country where the judgment was made and has been communicated to the debtor; and
- if enforcement has already been attempted or if the judgment has been enforced, documents concerning the enforcement of the judgment.

Regulation No. 44/2001/EC establishes rules for judgments given in a member state of the EU.

12 Other factors

May other non-mandatory factors for recognition of a foreign judgment be considered and if so what factors?

All factors for recognition of a foreign judgment are defined by the CCP or the Brussels I Regulation as described above. Reciprocity or other non-mandatory factors are not considered.

13 Procedural equivalence

Is there a requirement that the judicial proceedings where the judgment was entered correspond to due process in your jurisdiction, and if so, how is that requirement evaluated?

The review of a foreign judgment on its merits is, in principle, not permissible under the CCP, thus, the court only estimates compliance with the

formal requirements. However, the court may refuse to recognise a judgment if recognition would be clearly contrary to the essential principles of Estonian law (public order) and the fundamental rights and freedoms of persons or if the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner, unless such a person had a reasonable opportunity to contest the decision and the person failed to do so within the prescribed term. These criteria allow for an examination of procedural equivalence, but only as far as the principles of fair process are concerned.

The question of fair process is also considered in the Brussels I Regulation. However, according to Brussels I Regulation, it is not the procedural equivalence that is decisive, but the respect of due process, including correct and timely notice of the action. In addition, article 6 of the European Convention on Human Rights provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, which is also taken into account by the Estonian courts.

14 Personal jurisdiction

Will the enforcing court examine whether the court where the judgment was entered had personal jurisdiction over the defendant, and if so, how is that requirement met?

The jurisdiction of the court of the member state of the EU may not be reviewed. Therefore, the Estonian court will presume that the court of the member state had jurisdiction.

However, a court judgment in a civil matter made by a foreign state other than a member state of the EU is not subject to recognition in Estonia if the court that made the judgment could not have made the judgment in compliance with the provisions of Estonian law regulating international jurisdiction.

15 Subject-matter jurisdiction

Will the enforcing court examine whether the court where the judgment was entered had subject-matter jurisdiction over the controversy, and if so, how is that requirement met?

The enforcing court in Estonia does not review foreign judgments on their merits, therefore, it presumes that the court where the judgment was rendered had subject matter jurisdiction over the controversy. However, a court judgment in a civil matter made by a foreign state other than a member state of the EU is not subject to recognition in Estonia, if the court that made the judgment could not have made the judgment in compliance with the provisions of Estonian law regulating international jurisdiction.

According to article 35(3) of the Brussels I Regulation, the subject-matter jurisdiction of the court rendering the judgment will not be examined by the Estonian court. The jurisdiction may be examined in exceptional cases provided for in article 35(1) of the Brussels I Regulation (in consumer law or insurance law disputes, or in the case of Estonian courts having exclusive jurisdiction according to article 22 of the Brussels I Regulation).

16 Service

Must the defendant have been technically or formally served with notice of the original action in the foreign jurisdiction, or is actual notice sufficient? How much notice is usually considered sufficient?

The Estonian court will accept the method of service recognised by the foreign court if all the requirements in the applicable law were followed. Such proof has to be attached to the application for declaration of enforcement of a foreign judgment.

The Estonian CCP foresees several manners of service of procedural documents. In CCP there are special conditions for service of procedural documents in a foreign state. The provisions of the CCP apply to the service of procedural documents in another member state of the EU unless otherwise provided by Council Regulation No. 1348/2000/EC on the service in the member states of judicial and extrajudicial documents in civil or commercial matters. In some cases specified in Regulation No. 1348/2000/EC an Estonian court may adjudicate a matter even if no certificate of service or delivery to the defendant has been received.

Council Regulation No. 44/2001/EC foresees that a judgment shall not be recognised where it was given in default of appearance, if the defendant was not served with the document that instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable him or her to arrange for his or her defence, unless the defendant failed to commence proceedings to challenge the judgment when it was possible for him or her to do so. Council Regulation No. 44/2001/EC does not specify the term 'served with the document' mentioned in article 34(2). Practice shows that the emphasis is on factual assessment of the delivery and neither the law of the country of origin or country of enforcement should be preferred. Council Regulation No. 1348/2000/ EC and Hague Convention of 15 November 1965 on the Service Abroad may also be relevant to assess whether documents were served or not.

17 Fairness of foreign jurisdiction

Will the court consider the relative inconvenience of the foreign jurisdiction to the defendant as a basis for declining to enforce a foreign judgment?

The Estonian courts will not examine the judgment as to its merits, therefore, the issue of relative inconvenience is not considered.

18 Vitiatio by fraud

Will the court examine the foreign judgment for allegations of fraud upon the defendant or the court?

The Estonian courts will not examine a foreign judgment for allegations of fraud upon the defendant or the court, as it only decides on recognition in Estonia and enforcement of a judgment on formal requirements, not reviewing a judgment on its merits. The enforcing court presumes that material or legal dispute has already been resolved.

19 Public policy

Will the court examine the foreign judgment for consistency with the enforcing jurisdiction's public policy and substantive laws?

According to the CCP, a foreign judgment is not recognised, if recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) and, above all, the fundamental rights and freedoms of persons. Therefore, the court examines the consequences of the recognition and if they are contrary to public policy (public order), namely, the most important principles of the law, the judgment is not recognised.

20 Conflicting decisions

What will the court do if the foreign judgment sought to be enforced is in conflict with another final and conclusive judgment involving the same parties or parties in privity?

The court will not recognise a foreign decision if:

- the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court;
- the decision is in conflict with a decision of a foreign court in the same matter between the same parties, which has been earlier recognised or enforced in Estonia; or
- the decision is in conflict with a decision made in a foreign state in the same matter between the same parties, which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia.

Therefore, if an earlier decision exists, which is enforceable in Estonia, only the earlier decision is recognised.

21 Enforcement against third parties

Will a court apply the principles of agency or alter ego to enforce a judgment against a party other than the named judgment debtor?

No. It is not possible to enforce a judgment against a person who is not named as debtor in the judgment, therefore, the principles of agency or alter ego are not applied.

22 Alternative dispute resolution

What will the court do if the parties had an enforceable agreement to use alternative dispute resolution, and the defendant argues that this requirement was not followed by the party seeking to enforce?

The Estonian courts will not examine the judgments on their merits. Therefore, the court would probably recognise the judgment, unless the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner.

23 Favourably treated jurisdictions

Are judgments from some foreign jurisdictions given greater deference than judgments from others? If so, why?

The judgments from other EU member states are given greater deference than the judgments from non-EU countries because of the simplified process of recognition and enforcement created by the EU regulations. Also, the presence of an international treaty to which Estonia and the other country are parties usually simplifies the process of recognition and enforcement of foreign judgments.

24 Alteration of awards

Will a court ever recognise only part of a judgment, or alter or limit the damage award?

As the judgment is not reviewed on its merits, the courts in Estonia will generally not recognise only part of a judgment. However, if a part of the judgment is against Estonian public policy and the matters in the judgment are separable, it is conceivable that in exceptional cases the court may recognise only a part of the judgment. For example, it is likely that a punitive damage award would be held contrary to public policy. Also, according to article 48 of the Brussels I Regulation, the enforcement of only a part of the judgment is possible.

25 Currency, interest, costs

In recognising a foreign judgment, does the court convert the damage award to local currency and take into account such factors as interest and court costs and exchange controls? If interest claims are allowed, which law governs the rate of interest?

Estonia does not preclude the performance of the obligation in a foreign currency if the legal relationship between the parties so foresees, therefore, the court does not convert the damage award to local currency.

The interest stated in the original judgment is taken into account, because the judgment is not reviewed as to its substance. However, imposing a very high interest rate might be held contrary to public policy and the court could, in that case, refuse to recognise it. The bailiff satisfies a claim of an applicant together with the fine for delay and other accessory claims to the extent of which arises from the enforcement instrument.

The interest stated in the original judgment is applied if the judgment so provides (eg, up to the moment of actual payment). If no interest is stated in the original judgment, it is not possible to apply the general interest rate specified in Estonian law. If the debtor does not fulfil the monetary obligation on time, it is possible to claim a penalty for late payment in a separate court procedure.

26 Security

Is there a right to appeal from a judgment recognising or enforcing a foreign judgment? If so, what procedures, if any, are available to ensure the judgment will be enforceable against the defendant if and when it is affirmed?

The right to appeal a judgment recognising or enforcing a foreign judgment to the appellate court is an automatic right. If a party wants to appeal the decision of the appellate court to Supreme Court (appeal in cassation) leave to appeal has to be granted. In Estonia, not all appeals in cassation are heard. From all of the cassations submitted about 20 per cent are accepted and adjudicated.

The appellant may file an appeal against a ruling on refusal to declare a foreign judgment to be subject to enforcement or a ruling on revocation of a declaration of enforcement of such a judgment. The term for filing of an appeal is 15 days after the date of service of the ruling. The claimant and the debtor may file an appeal against a ruling on declaration of enforcement of a foreign judgment or a ruling on amendment of a declaration of enforcement of such a judgment. The term for filing appeals is one month after the date of service of the ruling or, where the ruling is served in a foreign state, two months after the date of service thereof.

The judgment declaring the foreign judgment enforceable will not enter into force and the bailiff will not commence proceedings until the appeals have been adjudicated by the court.

Until the end of the term for filing appeals against a ruling on declaration of enforcement of a foreign judgment or the entry into force of a decision made concerning an appeal against the ruling, only the measures prescribed for securing a claim may be applied for the compulsory enforcement of a foreign judgment. The debtor has the right to avoid compulsory enforcement by providing security in the amount that entitles the applicant to request compulsory enforcement of the decision. However, seized moveables may be sold in the course of enforcement proceeding and the money received from the sale may be deposited with the permission of the court, if the seized property could otherwise be destroyed or its value could significantly decrease or if depositing of the property is unreasonably expensive.

27 Enforcement process

Once a foreign judgment is recognised, what is the process for enforcing it in your jurisdiction?

To enforce a judgment, the proceedings for declaring the decision enforceable must be started, as explained above. In the ruling declaring the foreign judgment enforceable, the court makes reference to the right of the applicant to submit a court judgment declared to be subject to enforcement to an Estonian bailiff for enforcement. A bailiff performs enforcement actions only in the territory of Estonia. A bailiff conducts enforcement proceedings on the basis of an application and the enforcement instrument (eg, a court ruling). If the conditions for the commencement of enforcement proceedings are complied with, the bailiff delivers an enforcement notice to the debtor. The enforcement notice sets out, among other things, the proposal for voluntary compliance with the enforcement instrument and the term for voluntary enforcement. Upon failure to voluntarily comply with the

Update and trends

Regulation (EU) No. 1215/2012 of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, which will enter into force for the EU member states on 10 January 2015, will have an impact on the recognition and enforcement of other EU member state judgments in Estonian courts. One of the most important changes will be the direct enforcement in an EU member state of an enforceable judgment given in another EU member state without any declaration of enforceability being required.

enforcement instrument, enforcement actions may be taken in respect of the debtor. Upon making a claim for payment on property, the property is seized and sold (usually the first action is seizure of any bank account). The claim is then satisfied out of the money received from the sale of the property together with the fine for delay and other accessory claims to the extent that arises from the enforcement instrument.

If an act can be performed only by a debtor but the debtor fails to do so by the designated due date or the debtor violates the obligation to tolerate a certain act or refrain from a certain act, a bailiff shall, on the basis of an application of an applicant, make a proposal to a court to impose a fine on the debtor. The fine is paid into the state budget. Instead of imposition of a fine for the second time, detention may be imposed on a debtor. Payment of a fine or serving of detention does not release the debtor from the obligation to perform an act, tolerate an act or refrain from an act prescribed in the enforcement instrument.

28 Pitfalls

What are the most common pitfalls in seeking recognition or enforcement of a foreign judgment in your jurisdiction?

The most common pitfall is the procedural delay caused by the need to present translations and certifications from the court of origin. The applicant also has to prove that the judgment is enforceable in the state of origin.

Also, it might be a challenge to identify the rules that are applicable in any respective case, because different rules apply to the recognition and enforcement of a judgment, depending on whether the country of origin is an EU member state and whether a bilateral or multilateral treaty exists with Estonia.



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