



## RECOGNITION AND ENFORCEMENT OF FOREIGN COURT JUDGMENTS IN UKRAINE

### INTRODUCTION

Procedural order for recognition and enforcement of foreign court judgments in Ukraine is mainly regulated by provisions of Chapter VIII “*On Recognition and Enforcement of Foreign Court Judgments in Ukraine*” of Civil Procedural Code of Ukraine (hereinafter – “**CPC**”) and international treaties, ratified by the Verkhovna Rada of Ukraine.

According to article 390 CPC, “*foreign court judgment*” means judgment of court of foreign country; other competent authorities of foreign country, who are authorized to consider civil and commercial cases; judgment of foreign and international arbitration.

Procedural legislation of Ukraine divides foreign court judgments into judgments, which are subject to enforcement in Ukraine, and judgments, which are not subject to enforcement (for instance, recognition of rights, annulment of certain acts, recognition and deprivation of paternal rights, divorce, establishment of facts of legal significance, etc.).

Recognition procedures of both kinds of judgments have certain procedural distinctions in the preparation of the application for recognition of foreign judgments and their consideration.

In this article “*international treaties*” means international treaties, ratified by the Verkhovna Rada of Ukraine.

### IN WHAT WAY JUDGMENT OF FOREIGN COURT (INCL. INTERNATIONAL ARBITRATION) SHALL BE RECOGNIZED IN UKRAINE?

Foreign court judgment shall be recognized and enforced in Ukraine,

- if its recognition and enforcement provided by international treaties, or
- according to the principle of reciprocity.

If the recognition and enforcement of foreign court judgment depends on the principle of reciprocity, it is assumed that this principle exists, unless otherwise proven.

Ukraine is a party to a significant number of international treaties governing the recognition and enforcement of foreign court judgments. Thus, among these agreements it is necessary to mention the following:

- the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed by the Member States of the Commonwealth of Independent States in Minsk on January 22, 1993;
- the Agreement on Procedure of Settlement of Disputes related to Economic Activity, signed by the Governments of the Commonwealth of Independent States in Kiev on March 20, 1992;
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York in 1958;
- European Convention on International Commercial Arbitration, signed in Geneva on 21 April 1961, ratified by the USSR January 25, 1963;
- Convention on Civil Procedure;

- bilateral agreements.

### **WHAT IS THE DEADLINE FOR A JUDGMENT OF A FOREIGN COURT (INCL. INTERNATIONAL ARBITRATION) TO BE BROUGHT TO ENFORCE?**

Judgment of a foreign court may be brought to enforce in Ukraine for three years from the date of its entry into force, except for the judgment on recovery of periodical payments which may be brought to enforce the entire term of the recovery of arrears over the last three years.

### **WHAT IS THE PROCEDURE FOR FILING A PETITION FOR PERMISSION TO ENFORCE FOREIGN COURT JUDGMENT?**

Petition for permission to enforce a foreign court judgment shall be filed with the court directly by judgment creditor (its representative) or, according to an international treaty, by another person (its representative).

If international treaties provide that a petition for permission to enforce a foreign court judgment shall be filed by state authorities of Ukraine, the court considers a petition received by state authorities of Ukraine.

### **WHAT ARE REQUIREMENTS OF A PETITION FOR PERMISSION TO ENFORCE A FOREIGN COURT JUDGMENT?**

Petition for permission to enforce a foreign court judgment shall be filed in writing and shall contain the following:

1. name of the person who files a petition, an indication of its domicile;
2. name of the debtor, an indication of its domicile and location of its property in Ukraine;
3. reasons for a petition.

A petition for permission to enforce a foreign court judgment shall be attached with documents provided by international treaties.

If international treaties do not define the list of documents that shall be attached to the petition, or such treaty absents, the following documents shall be attached to the petition:

1. certified as required by law a copy of a foreign court judgment, the enforcement of which is filed a petition;
2. an official document that the foreign court judgment came into legal force (if not specified in the judgment);
3. document certifying that the party, against whom the judgment was made by a foreign court and did not participate in the trial, was properly notified of the time and place of hearing;
4. document that defines in which part or how long the judgment of a foreign court is in force (if it has already been enforced previously);
5. a document certifying the authority of the representative of a judgment creditor (if the petition is filed by the representative);
6. certified as required by law translation of documents in Ukrainian language or the language provided by international treaties of Ukraine.

### **WHAT ARE THE GROUNDS FOR DENIAL A PETITION FOR PERMISSION TO ENFORCE A FOREIGN COURT JUDGMENT?**

A petition for permission to enforce a foreign court judgment shall not be satisfied in the cases stipulated by international treaties.

If in international treaties such cases are not stipulated, the petition may be denied:

1. if the judgment of a foreign court under the laws of the State, in which it was decided, have not came into legal force;

2. if the party, against whom the judgment was made by a foreign court, was unable to participate in the trial because it was not properly notified of the proceedings;
3. if the judgment had taken in the case, consideration of which belongs exclusively to the competence of a court or other authorized body according to the law of Ukraine;
4. if the court of Ukraine had decided the dispute between the same parties on the same subject and on the same grounds that entered into legal force, or if Ukrainian court has already considered the dispute between the same parties, with the same subject and on the same grounds, started before the time of opening of proceedings in foreign courts;
5. if it was omitted set by international treaties and CPC the term of presenting the judgment of a foreign court for enforcement in Ukraine;
6. if the subject of the dispute is not subject to judicial settlement under the laws of Ukraine;
7. if the decision threatened the interests of Ukraine;
8. in other cases established by the laws of Ukraine.

### **WHAT IS THE PROCEDURE FOR ENFORCEMENT OF FOREIGN COURT JUDGMENT?**

On the basis of the judgment of a foreign court and on granting permission for its enforcement, which entered into force, the court issues a writ of execution, which shall be sent for execution in the manner prescribed by the Law of Ukraine "On Enforcement Proceedings".

*Information is provided as of June 7, 2013.*

## **LAW FIRM RABOMIZO**

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