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Recognition and Enforcement of Foreign Judgments



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ABSTRACT

The study provides an overview of the recognition and enforcement of foreign judgments. It explains that this legal procedure allows a court in one country to recognize and enforce a judgment rendered by a court in another country. That helps to resolve dispute and promote international cooperation. The paper also considers the legal framework and terms needed for the recognition and enforcement of foreign court sentences, such as the Hague Convention and national laws. The author specifies the general terms necessary for recognition and enforcement of a foreign judgment. Also, the research describes problems and obstacles, such as distinctions in legal systems, political tensions and language barriers, which can cause difficulties in the recognition and enforcement of foreign judgments.

Keywords: *recognition; enforcement; foreign judgments; legal systems; Hague Convention*

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ОРИГИНАЛЬНАЯ СТАТЬЯ

Признание и приведение в исполнение иностранных судебных решений

АННОТАЦИЯ

В этой статье представлен обзор признания и приведения в исполнение иностранных судебных решений. В нем разъясняется, что эта юридическая процедура позволяет суду в одной стране признать и привести в исполнение решение, вынесенное судом в другой стране, что помогает в разрешении споров и содействии международному сотрудничеству. В статье рассматриваются правовые рамки и условия, необходимые для признания и приведения в исполнение иностранных судебных решений, такие как Гаагская конвенция и национальные законы. Далее в нем излагаются общие условия, которые должны быть выполнены, прежде чем иностранное судебное решение может быть признано и приведено в исполнение. Обсуждаются проблемы и препятствия в признании и приведении в исполнение иностранных судебных решений, такие как различия в правовых системах, политическая напряженность и языковые барьеры.

Ключевые слова: признание; приведение в исполнение; иностранные судебные решения; правовые системы; Гаагская конвенция

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Introduction

The international legal system that enables parties to rely on court judgments regardless of their location must include the recognition and enforcement of foreign judgments. This promotes international cooperation and facilitates cross-border commerce by guaranteeing that the verdict of a trial in one nation can be recognized and enforced in another. Yet, the process of recognizing and enforcing foreign decisions can be difficult due to potential legal, cultural, and political barriers.

This essay's goal is to examine the legal framework guiding the recognition and enforcement of foreign judgments, the requirements needed to do so, potential issues and obstacles that might arise during the process, as well as any complications that might occur. The essay will look at recent situations where it was difficult to recognize and enforce foreign judgments, analyze the legal justifications advanced by the parties, and discuss how those cases turned out.

The legal foundation for the recognition and enforcement of foreign judgments, including international treaties, national legislation, and judicial decisions, will be covered in the first section. It will give a general review of the various strategies used by different nations and legal systems while focusing on fundamental tenets and conditions that must be fulfilled for the acceptance and enforcement of a foreign judgment. A foreign court's jurisdiction, the nature of the judgment, and compliance with due process standards are only a few of the prerequisites that must be met for a foreign judgment to be recognized and enforced. It will go over numerous legal standards that courts employ to decide whether to recognize and enforce a judgment from another country. The second part will cover the challenges and barriers that could prevent foreign decisions from being recognized and enforced. They include disparities in legal systems, political unrest between nations, and issues relating to cultural or linguistic differences. It will look at recent cases where these issues were acute, review the legal justifications advanced by the parties involved, and discuss how

the cases turned out. This paper's overall goal is to provide a thorough review of the recognition and enforcement of foreign judgments, highlighting important legal requirements and principles while also examining potential issues and roadblocks. In doing so, I will highlight the significance of this area of law for encouraging global collaboration and streamlining cross-border transactions, as well as the necessity of ongoing efforts to remove any issues or barriers that may arise.

Part I. Framework and Conditions for Recognition and Enforcement of Foreign Judgments.

A. Definition and main concept.

Recognition and enforcement of foreign judgments refers to the legal procedure through which a court in one nation acknowledges and enforces a judgment delivered by a court in another one. This procedure entails analyzing a foreign court decision's legality and enforceability as well as making sure it does not conflict with the recognized nation's state policy or legal system.

International law is fundamentally reliant on the system for recognizing and enforcing foreign decisions. In a globalized society with frequent cross-border transactions, this system offers a framework for the law that enables people and businesses to settle conflicts and get justice. International cooperation is encouraged by the recognition and enforcement of foreign judgments, which also guarantees that parties can rely on court decisions no matter where they are located.

The uncertainty of obtaining a judgment that can cause the implementation in another country, parties may be hesitant to engage in international transactions in the absence of a system of recognition and enforcement of foreign judgments. As a result, economic activity may decline and trade investment may be hampered. Moreover, the ability to make court judgments enforceable internationally ensures that the parties are held responsible for their conduct and advances justice. Also, it minimizes the need for the parties to search for a forum when they are looking for a jurisdiction. The last one would be more beneficial to

their case and lowers the danger of conflicting rulings from various courts in various nations.

The respect for international legal systems and the rule of law are both enhanced by the recognition and enforcement of foreign judgments. This leads to the more trust between legal systems by encouraging judges to consider other courts' rulings when making their own conclusions. The point is controversial that maintaining the rule of law, ensuring the integrity of the judicial system, and promoting international cooperation all depend on the system for recognizing and enforcing foreign judgments. This reduces the possibility of contradictory court rulings and promotes respect for various legal systems by providing a framework for settling disputes and guaranteeing fairness in international business transactions.

B. Legal framework and terms for recognition and enforcement.

Depending on the jurisdiction, different laws, international agreements, and court rulings make up the legal framework that controls the recognition and execution of foreign judgments. The acceptance and enforcement of foreign judgments are governed by some of multilateral and bilateral accords at the international level. The Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, approved in 2019 and expected to go into effect soon, is the most significant of them. The Convention aims to improve legal certainty and predictability for international business transactions by providing a framework for the recognition and execution of foreign judgments in civil and commercial cases [1]. Most nations have legislation governing the acceptance and execution of foreign judgments at the national level. Usually, these rules specify the conditions that must be satisfied in order for a foreign judgment to be recognized and enforced in the nation, including whether the foreign court had jurisdiction over the parties and if the verdict was final and binding. Other defenses or grounds, such as public policy or procedural faults, may also be provided for by national laws in order to refuse recognition and enforcement. Finally, judicial rulings have a significant influence on the legal framework for the acceptance and enforcement of foreign judgments. Courts have the authority to interpret and apply international agreements and domestic legislation, as well as to create common law norms and principles based on their own precedents and those of other courts.

All in all, the legal framework for the recognition and enforcement of foreign judgments is complex and differs based on the nation and the particular facts of the case. But it is necessary to advance global collaboration and make sure that parties may rely on court judgments no matter where they are located. Foreign judgments are not automatically recognized and enforced; certain requirements must be met. Depending on the legal system of the nation where enforcement is sought, specific requirements must be completed before a foreign judgment can be recognized and put into effect there. A few common conditions are as follows [2]:

1. The foreign court must have had jurisdiction over the parties or the subject of the case. If the foreign court lacked jurisdiction, the judgment may not be recognized or enforced.
2. The foreign judgment must be final and conclusive. This means that there must be no further right of appeal in the foreign court.
3. The recognition and enforcement of foreign judgments cannot be contrary to the public policy of the enforcing country. This means that the judgment cannot be incompatible with the legal and moral principles of the enforcing country.
4. The judgment must have been rendered in compliance with due process requirements. This includes things like notice to the parties, the right to be heard, and the opportunity to present evidence.
5. The foreign judgment must not contradict a judgment of a court in the enforcing country involving the same parties and the same issues [3].

Overall, the conditions for recognition and enforcement of foreign judgments aim to the fair, final court sentence and are consistent with the legal and moral principles of the enforcing country.

Part II. Challenges and Case studies in Recognition and Enforcement of Foreign Judgments.

A. Challenges and obstacles.

The recognition and enforcement of foreign judgments can be challenging due to a variety of factors. Some of the common challenges and obstacles include:

Differences in legal systems: The laws and procedures of various nations' legal systems may differ, since they are based on various legal traditions. In particular, if the legal systems are substantially dissimilar, this might make it challenging to compare and assess international decisions [4].

Political tensions: Foreign rulings may be challenging to implement when there are political problems between nations. For instance, if two nations are engaged in a diplomatic conflict, one nation may be hesitant to enforce a decision made by the other nation [5].

Language barriers: For recognizing and enforcing foreign decisions, linguistic barriers can be a problem. It could be challenging for the court, for instance, to comprehend a foreign judgment if they wrote it in a language that they are unfamiliar with.

Cultural differences: In order to recognize and uphold foreign judgments, there can appear barriers resulting from cultural differences. A foreign decision, for instance, can be founded on cultural standards that are distinct from those of the nation where enforcement is sought.

Procedural requirements: In order for a foreign judgment to be recognized and enforced, it must typically comply with certain procedural requirements. For example, the foreign court must have had jurisdiction over the parties and the subject of the case, and the judgment must be final and conclusive [6].

Public policy considerations: The country where enforcement is sought may, in some circumstances, object to the enforcement of a foreign judgment because it would be against its public policy. As an illustration, certain nations may not enforce judgments that infringe upon fundamental human rights [7].

The process of recognizing and enforcing foreign judgments can be complex, and it needs careful examination of a wide range of issues.

B. Case studies.

Recognizing and enforcing foreign judgments is not always straightforward. Thus, to understand the challenges and complexities of recognition and enforcement of foreign judgments, it is important to examine real-world cases.

*C. Pugachev vs Russia.*¹

The court in France heard a case under the name *Pugachev vs Russia* that involved the former Russian oligarch Sergei Pugachev and the Russian government. The court primarily focused the case

on recognizing and enforcing Pugachev's decision on the Russian court. Pugachev's assets were to be seized by a Russian court after it determined that he was indebted to a state-owned bank for billions of dollars. According to Pugachev, they did not give him a fair trial and the Russian court system was not impartial. The French court ultimately found in Pugachev's favor and rejected the Russian ruling, reasoning that Pugachev would not receive a fair trial if he returned to Russia and that the Russian legal system lacked sufficient independence from the executive branch.

The recognition and execution of foreign judgments highlighted difficulties and barriers that may be encountered in this case. It was challenging to get the judgment enforced in France because of political instability and doubts about the Russian court system independence. The case also emphasizes how crucial it is to guarantee that foreign courts hold fair trials in order to ensure the recognition and implementation of their judgments abroad.

*D. Akhmedova vs Akhmedova.*²

In the well-known case of *Akhmedova vs Akhmedov*, a foreign judgment had to be recognized and enforced in the United Kingdom. The case included Tatiana Akhmedova's divorce settlement from Russian business executive Farkhad Akhmedov. Tatiana Akhmedova received a \$ 646 million divorce settlement from a Russian court in 2016, which also included a yacht, a private plane, and a residence in London. Farkhad Akhmedov, however, objected to paying the compensation, claiming the Russian court lacked jurisdiction over their assets, most of which had been in the United Kingdom. Tatiana Akhmedova responded by requesting that the Russian ruling be recognized and enforced in the UK. Farkhad Akhmedov was ordered to pay his ex-wife the full settlement sum in 2018 after the High Court of Justice in London granted her request. Farkhad Akhmedov, however, appealed to the High Court's ruling, claiming that the London property was held in a trust that was exempt from

¹ The Tribunal de Grande Instance of Nice, France, granted Sergei Pugachev's claim against the Russian Federation. pugachevsergei: site. URL: <https://www.pugachevsergei.com/the-tribunal-de-grande-instance-of-nice-france-granted-sergei-pugachevs-claim-against-the-russian-federation/>

² United Kingdom: Money to burn – dishonest schemes go up in flames following High Court judgment in UK's largest ever divorce case (*Akhmedova v. Akhmedov* [2021] EWHC 545 (Fam)). Backer MCKinsey: site. URL: <https://insightplus.bakermckenzie.com/bm/dispute-resolution/united-kingdom-money-to-burn-dishonest-schemes-go-up-in-flames-following-high-court-judgment-in-uks-largest-ever-divorce-case-akhmedova-v-akhmedov-2021-ewhc-545-fam>

the divorce settlement and that the Russian court's jurisdiction was unconstitutional. The Russian verdict was enforceable in the United Kingdom, according to the Court of Appeal in London, which dismissed Farkhad Akhmedov's appeal in 2020 and maintained the High Court's ruling.

This case emphasizes how crucial it is for foreign decisions in cross-border conflicts to be recognized and enforced, especially when one side disobeys a court order. When there are disagreements regarding jurisdiction and the ownership of assets in other nations, it also highlights the complexities that might come up during the recognition and enforcement process.

Conclusion

As a result, it should be noted that recognizing and enforcing foreign judgments is complicated and calls for careful consideration of a range of variables, including different legal systems' existence, linguistic and cultural barriers, procedural requirements, and public policy considerations. If the parties are reluctant to engage in foreign transactions because of uncertainty about whether a judgment may be executed in another

country, the difficulties and barriers in this area could have substantial economic effects, such as a fall in international trade and investment. The harmonization of laws and legal systems across borders still has to be improved, despite there are international conventions and treaties aiming at addressing these issues.

The cases of Akhmedova vs Akhmedov and Pugachev vs Russia highlight the difficulty and significance of the recognition and enforcement of foreign judgments and the likelihood that disagreements will develop in this area. Governments, international organizations, and lawyers must cooperate in order to create more efficient systems for the recognition and execution of foreign judgments in order to overcome these obstacles. This involves encouraging greater openness and equity in legal systems. That can enhance cross-border communication and cooperation, and setting distinct and uniform procedural procedures for the recognition and enforcement of foreign judgments. By doing this, we may contribute to a more stable and prosperous global economy development where parties can trade internationally with greater assurance and predictability.

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