

# BULLETIN

## THE ENFORCEMENT IN BELGIUM OF NON EU JUDGEMENTS

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Judgements rendered by a court outside the European Union (EU)<sup>i</sup>, Switzerland, Norway and Iceland<sup>ii</sup>, will be enforced in Belgium according to the rules set out in the Belgian Code of International Private Law (CIPL), unless an international convention with Belgium rules the matter. The number of such conventions not superseded by the EU Regulation or the Lugano Convention is very restricted<sup>iii</sup>, so that the Belgian CIPL will in most cases rule the enforcement in Belgium.

### EX PARTE APPLICATION

According to article 22§1 CIPL a foreign judgement, which is enforceable in the country where it was rendered, shall be rendered enforceable by the Court of First Instance judging upon an ex parte application to that end. (art. 1025 – 1034 Jud. Code referred to by art 23 CIPL)

### DOCUMENTS TO FILE

The applicant shall, along with his application, only submit

- the judgement enforcement of which is sought;
- if the judgement is a default judgement, then the proof of service to the non- appearing party;
- a document showing the judgement is enforceable and notified or served.

### NO REVIEW OF THE MERITS.

#### GROUND FOR REFUSAL ARE LIMITATIVE

The court shall not review the merits of the case (art. 25§2 CIPL). Art. 25§1 CIPL enumerates the nine grounds for refusing the enforcement in Belgium. In a nutshell, the enforcement will be refused if the judgement:

1. is manifestly contrary to Belgian public policy;
2. violates the rights of the defendant;
3. violates Belgian mandatory conflict of law rules;
4. can be appealed or otherwise challenged, (however the Belgian judge may nonetheless grant the provisional enforcement, and may thereby submit the provisional enforcement to the condition of posting security) (art. 23§4 CIPL);
5. is incompatible with a Belgian judgement or an earlier other foreign judgement;
6. rules on a dispute submitted earlier to a Belgian court and still pending;
7. is rendered on a dispute for which Belgian Courts had exclusive jurisdiction;
8. is rendered by a foreign court whose jurisdiction is solely based on the presence of defendant or its assets in country of such court but in a matter unrelated to such country;
9. is rendered in connection with a number of very specific provisions in respect

of name of persons, divorce, adoption, intellectual property, existence, functioning, dissolution and liquidation of Belgian entities and insolvency.

### CONCLUSION

The enforcement of foreign judgements is swift, on the basis of an ex parte application, with no review of the merits of the case and with a very restricted number of documents to submit. The CIPL does not require any type of reciprocity.

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Warning. This bulletin is a summary, it does not include exceptions, it simplifies the statutory wording and may not apply to all cases or matters. This bulletin does not replace a legal opinion and should not induce any decision. There can be no liability deriving from what is expressed hereabove. We will be glad to give you some further directions, answer your queries or concerns, over the phone or otherwise. We will usually be able to give you a quick answer on the basis of specific information. As mentioned hereabove we will not charge fees until we so advise and you consent thereto.

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Also see our November 2017 Bulletin on the impact of the Brexit on the enforcement in Belgium of UK court judgements and arbitration awards.

<sup>i</sup> If the judgement is rendered by a court within a EU Member State, then, the enforcement thereof in Belgium will be governed by 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, known as Brussels I Recast Regulation.

<sup>ii</sup> If the judgement is rendered by a court in Switzerland, Norway or Iceland, then, the enforcement thereof, will be governed by the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed in Lugano on 30 October 2007. Its effects are materially the same as the Brussels I Regulation of 2000 and it governs the matters discussed here between the EU Member States, Iceland, Switzerland and Norway.

<sup>iii</sup> Such as the Convention on Choice of Court Agreements, done at The Hague on 30 June 2005 ratified by the EU, Denmark, Mexico, Montenegro and Singapore. This convention was also signed, but not (yet) ratified, by China, Ukraine and the USA.