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Procedures for recognition and enforcement of foreign judgments in Russia

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Recognition and enforcement procedure

Formal procedure

What is the formal procedure for seeking recognition and enforcement of a foreign judgment?

The procedure for recognition and enforcement in Russia starts with the submission of an application for recognition and enforcement of a foreign judgment before the relevant Russian court. The Russian court will consider whether this application meets the technical requirements and will then schedule a date for the hearing. The Russian court will notify the winning and losing parties in the foreign judgment about the date and place of the hearing and publish this information in one of the Russian public court databases on the Internet.

The failure of a party in the dispute to send a counsel to the court hearing, having been duly notified of its date and place, will not prevent the Russian court from satisfying or denying the application for the recognition and enforcement of a foreign judgment.

Any application for recognition and enforcement of a foreign judgment at the first-instance court will be considered by a single judge.

Losing parties to a foreign judgment are entitled to submit a response to the application with supporting documents. The number of submissions at the first-instance court in Russia is unlimited and parties to the enforcement proceedings are entitled to file motions and make further submissions until the Russian court has approved or denied this application.

Enforcement proceedings are conducted in Russian. Foreign documents (including foreign judgments) must be presented to the Russian courts with a translation into Russian certified by a Russian notary and containing an apostille or consular legalisation, where appropriate.

Enforcement proceedings are public. Proceedings can be kept confidential where necessary or be heard in private at the request of a party (eg, in cases involving commercial secrets). If proceedings are heard in private, the judgments of the Russian courts will not be made public.

When a Russian court issues a judgment recognising and enforcing a foreign judgment, it will immediately enter into legal force, but may be appealed to the high courts.

Once the Russian court's judgment has entered into legal force, a writ of execution is issued, which the winning party should send to the Russian bailiff service, if required, to enforce the foreign judgment (eg, by freezing the losing party's assets and accounts, recovering funds and foreclosing on the losing party's assets). Execution of the foreign judgment by the Russian bailiff service is subject to the same laws and procedures that are routinely applied to the execution of domestic judgments.

Timeframe

What is the typical timeframe for the proceedings to grant recognition and enforcement?

Under Russian law, an application for recognition and enforcement should be considered by a Russian first-instance court within one month for commercial matters and two months for non-commercial matters.

The Russian courts do not always meet procedural deadlines. Therefore, as a matter of practice and depending on the complexity of the dispute, enforcement proceedings usually last between three and nine months in the Russian first-instance court.

*Fees***What fees apply to applications for recognition and enforcement of foreign judgments?**

The winning party to a foreign judgment must pay a state fee of Rb3,000 (at present \$1 equates to approximately Rb60) to apply for the recognition and enforcement of a foreign judgment in Russia for commercial matters. An application for the recognition and enforcement of a foreign judgment in Russia for non-commercial matters is not subject to state fees.

The winning party in Russian enforcement proceedings may ask for the costs of the enforcement proceedings to be reclaimed from the losing party (including lawyers' fees, translation costs and travel and postal expenses). At the same time, recovering lawyers' fees in full can be problematic, because the Russian courts frequently view typical lawyers' fees in western jurisdictions as unreasonable and choose not to award them in full to the winning party.

*Security***Must the applicant for recognition and enforcement provide security for costs?**

Russian law does not require the winning party to a foreign judgment to provide any security for costs when applying to the Russian courts for the recognition and enforcement of a foreign judgment.

However, within enforcement proceedings, the Russian courts may request security of costs in the following instances:

- the Russian courts postpone enforcement proceedings in Russia due to parallel proceedings in a foreign jurisdiction aimed at challenging the foreign judgment in question or at staying the enforcement under this judgment. Security for costs may then be provided by the losing party to a foreign judgment; and
- the winning party to a foreign judgment requests an injunction (interim measures) in Russia in support of the future enforcement of this foreign judgment. Security for costs may then be provided by the winning party to a foreign judgment on its own initiative or at the request of the Russian court following the losing party's request.

*Appeal***Are decisions on recognition and enforcement subject to appeal?**

A Russian court's judgment recognising and enforcing a foreign judgment or refusing to do so may be appealed to the superior Russian courts.

Appeal proceedings in Russia vary depending on the subject matter of the dispute in question.

In commercial matters, first-instance court judgments may be appealed to the district *arbitrazh* courts (no request to grant an appeal is required) and the Supreme Court's Commercial Disputes Chamber (the right to appeal should be granted by a single judge of this court in *ex parte* proceedings).

For non-commercial matters, first-instance court judgments may be appealed to the appellate divisions of the supreme courts of the Russian regions (no request to grant an appeal is required). These judgments may be appealed to the presidium of the supreme courts of the Russian regions and the Civil Disputes Chamber of the Supreme Court (for both courts, the right to appeal should be granted in *ex parte* proceedings).

Judicial acts of the Commercial and Civil Disputes Chamber of the Supreme Court may theoretically be subject to a supervisory review by the Presidium of the Supreme Court.

Other costs

How does the enforcing court address other costs issues arising in relation to the foreign judgment (eg, calculation of interest, exchange rates)?

The Russian courts recognise and enforce foreign judgments as is. Therefore, court costs in foreign proceedings or interest accrued on any sums to be payable under the foreign judgment are recoverable in Russia only as long as they are indicated in the enforced judgment.

The Russian courts are not obliged to convert any sums indicated in the foreign judgment into roubles, although this is usually done by the Russian bailiff service, which recovers relevant funds from the losing party based on the Central Bank of Russia's exchange rates.

The Russian bailiff service also usually calculates the amount of interest indicated for recovery from the losing party in the foreign judgment. The winning party to the foreign judgment is entitled to:

- provide supporting calculations to this service;
- review the calculations; and
- challenge the actions (or omissions) of the Russian bailiff service before the Russian courts, if required.

Enforcement against third parties

To what extent can the courts enforce a foreign judgment against third parties?

Russian law does not recognise the concepts of agency or alter ego in enforcing foreign judgments. Therefore, a foreign judgment can be enforced only against the losing party named in the foreign judgment.

A violation of the rights of third parties by foreign judgments is not mentioned among grounds for refusing to recognise and enforce foreign judgments in Russia. However, Russian courts have treated the violation of rights of third parties as a violation of Russian public policy.

Partial recognition and enforcement

Can the courts grant partial recognition and enforcement of foreign judgments?

The Russian courts are entitled to recognise and enforce foreign judgments in full or in part and have granted only partial enforcement.

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