

International Comparative Legal Guides



Practical cross-border insights into the enforcement of foreign judgments

Enforcement of Foreign Judgments 2022

Seventh Edition

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1 Country Finder

1.1 Please set out the various regimes applicable to recognising and enforcing judgments in your jurisdiction and the names of the countries to which such special regimes apply.

Applicable Law/Statutory Regime	Relevant Jurisdiction(s)	Corresponding Section Below
General regime for recognition and enforcement of judgments		
(i) Private International Law Act (PILA); and (ii) Enforcement Act (EA).	All jurisdictions, unless regulated by EU law and/or international treaties.	Questions 2.1–2.13, 4.1.
Special regimes for recognition and enforcement of judgments		
(i) Multilateral treaties: (a) Hague Convention of 1 March 1954 on civil procedure. (b) Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. (c) Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.	All Signatory States and Parties to the Convention.	Questions 3.1–3.4.
(d) Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters of 10 June 2007 (Lugano Convention).	EU Member States, Iceland, Norway, Switzerland.	Questions 3.1–3.4.
(e) Convention on the Contract for the International Carriage of Goods by Road (CMR) of 19 May 1956. (f) Convention Concerning International Carriage by Rail (COTIF) of 9 May 1980.	All Signatory States and Parties to the Convention.	Questions 3.1–3.4.
(ii) Bilateral treaties concluded between the Republic of Croatia and other sovereign States.	Austria (re maintenance obligations), Belgium (re maintenance obligations), Bosnia and Herzegovina, Bulgaria, Czech Republic, France, Greece, North Macedonia, Poland, Romania, the Russian Federation, Slovakia, Slovenia, Turkey.	Questions 3.1–3.4.

2 General Regime

2.1 Absent any applicable special regime, what is the legal framework under which a foreign judgment would be recognised and enforced in your jurisdiction?

Recognition and enforcement of a foreign court judgment is generally regulated by the PILA and EA, unless regulated by EU law and/or international treaties.

2.2 What constitutes a ‘judgment’ capable of recognition and enforcement in your jurisdiction?

A “judgment” capable of recognition and enforcement is a foreign court decision in a civil matter finally resolving a dispute between the parties. “Civil matters” include matters of personal status, family and property matters as well as any other substantive matters.

Under the provisions of PILA, the term “foreign court decision” includes:

- (i) decisions of a foreign court;

- (ii) settlements reached before a foreign court (court settlements); and
- (iii) decisions of other foreign State agencies which are considered equal to court decisions or court settlements in the State of that decision's origin, provided that the decision regulates "private law matters with international attributes" (Arts 1 and 66 PILA).

Only a condemnatory judgment ordering the defendant to carry out, undergo or refrain from a specific action may be enforced. A judgment regulating rights only (declarative or constitutive judgment or award) does not require enforcement and is therefore not enforceable.

2.3 What requirements (in form and substance) must a foreign judgment satisfy in order to be recognised and enforceable in your jurisdiction?

According to PILA, a judgment must satisfy the following positive (must exist) and negative requirements (must not exist) in order to be recognised and enforced.

- (i) Negative requirements – a foreign judgment shall not be recognised:
 - (i.i) if the Croatian court or other agency has exclusive competence over the matter (Art. 69 para. 1 PILA);
 - (i.ii) if it is determined that the person against whom the judgment was rendered was prevented from taking part in the proceedings due to procedural irregularities (determined only upon the objection of the opposing party) (Art. 68 PILA);
 - (i.iii) if it is contrary to the *ordre public* of the Republic of Croatia (Art. 71 PILA);
 - (i.iv) if a final decision in the same matter between the same parties has already been reached by a Croatian court (Art. 70 para. 1 PILA);
 - (i.v) if another foreign court decision was reached in the same matter between the same parties and the said foreign court decision became final earlier and has already been recognised or is suitable to be recognised in the Republic of Croatia (Art. 70 para. 1 PILA);
 - (i.vi) if the court established jurisdiction exclusively based on the defendant's location or the location of the defendant's assets in the State of the court, and said presence is not directly linked to the proceedings' merits (Art. 69 para. 2 PILA); or
 - (i.vii) if the court established jurisdiction contrary to provisions of Chapter II, Sections 3 (jurisdiction in matters related to insurance), 4 (jurisdiction over consumer contracts) and 5 (jurisdiction over individual contracts of employment) of Regulation (EU) No. 1215/2012 of 12 December 2012 (Art. 69 para. 3 PILA).
- (ii) Positive requirements – a foreign judgment shall be recognised if the applicant seeking recognition of the judgment provides confirmation from the competent foreign court or another competent agency that the judgment is final under the laws of the country of origin. If the judgment is also subject to enforcement, confirmation from the competent foreign court or other competent agency that the judgment is enforceable under the laws of the country of origin is also required (Art. 67 PILA).

2.4 What (if any) connection to the jurisdiction is required for your courts to accept jurisdiction for recognition and enforcement of a foreign judgment?

According to PILA, no connection to the jurisdiction is required for Croatian courts to accept jurisdiction for recognition and enforcement of a foreign judgment.

2.5 Is there a difference between recognition and enforcement of judgments? If so, what are the legal effects of recognition and enforcement respectively?

In Croatian law, there is a difference between the recognition and enforcement of judgments.

Recognition

A foreign judgment recognised by a Croatian court is equal to a domestic judgment and has legal effect in Croatia (Art. 66 para. 1 PILA).

Enforcement

Enforcement entails a compulsory fulfilment of claims through enforcement actions prescribed by the EA on various objects of enforcement (real estate, movable assets, monetary claims, etc.) based on enforceable or certified documents (court judgments, court settlements, arbitral awards, etc.).

According to the law and court practice, enforcement based on a foreign judgment may be ordered and conducted in Croatia provided that the judgment satisfies all requirements for its recognition (see question 2.3 above), or if such a possibility is prescribed by law, an international treaty or EU law directly applicable in Croatia (Art. 19 EA).

2.6 Briefly explain the procedure for recognising and enforcing a foreign judgment in your jurisdiction.

The motion for recognition is filed with the competent court (Art. 72 para. 1 PILA).

PILA prescribes neither the form of the motion nor the necessary documentation supporting the motion for recognition. According to court practice, the motion must include personal information about the applicant and the opposing party, information about the judgment as well as any other information necessary for the court to resolve the matter. Pursuant to the provisions of PILA, the motion must be supported by confirmation of finality of the judgment in its country of origin. Therefore, the following is to be submitted to the competent Croatian court:

- (i) the original foreign judgment;
- (ii) a confirmation from the competent foreign court or other competent agency that the judgment is final under the laws of that country;
- (iii) a certified translation of the judgment into the Croatian language;
- (iv) if the judgment is based on the absence of the defendant before the court, a confirmation from the foreign court that the defendant was duly summoned to participate in the proceedings;
- (v) power of attorney if the applicant is represented by an attorney;
- (vi) a copy of the certificate of citizenship (of the applicant); and
- (vii) court taxes.

During the proceedings, the court will determine whether the judgment satisfies requirements prescribed for its recognition (see question 2.3 above).

The court decides on the recognition of the judgment via a court order. The parties may appeal the order.

If a foreign judgment is not already recognised by a final court order issued in recognition proceedings, any court in Croatia may decide on the recognition of a foreign judgment as a preliminary issue during other court proceedings; however, such recognition has legal effect only within those particular proceedings (Art. 72 para. 3 PILA).

If the foreign judgment is final and enforceable, the motion for recognition and enforcement of the judgment may be filed with the competent court (Art. 71 para. 1 PILA). In that case, confirmation from the competent foreign court or other competent agency that the judgment is enforceable under the laws of the country of origin must be submitted.

After the judgment is recognised in the Republic of Croatia, the foreign judgment is considered equal to a domestic judgment (see question 2.5 above). The enforcement of the judgment is then ordered and conducted in accordance with the EA.

The motion for enforcement of the judgment must include a reference to the judgment for which the enforcement is sought. The original foreign judgment supported by confirmation from the Croatian court on recognition of the judgment and a certified translation of the judgment into the Croatian language must be submitted with the motion.

If the motion is found to have grounds and it is supported by all necessary documentation, the court will issue an Enforcement Order. The parties may appeal the Enforcement Order.

Enforcement based on a foreign judgment may also be ordered and conducted based on a foreign judgment without conducting recognition proceedings, provided that the judgment fulfils all requirements for its recognition or if such possibility is prescribed by law, an international treaty or EU law directly applicable in Croatia (Art. 19 EA). According to the law and court practice, the court then decides on the recognition of a foreign judgment as a preliminary issue with legal effect only within enforcement proceedings (Art. 71 para. 3 PILA) (see question 2.5 above under “Recognition”).

2.7 On what grounds can recognition/enforcement of a judgment be challenged? When can such a challenge be made?

The opposing party may challenge the recognition and enforcement of a foreign judgment only with regard to the requirements for recognition and enforcement of the foreign judgment, objecting that the requirements were not satisfied (see question 2.3 above).

2.8 What, if any, is the relevant legal framework applicable to recognising and enforcing foreign judgments relating to specific subject matters?

In Croatian law there is no legal framework applicable to the recognition and enforcement of foreign judgments relating to specific subject matters, apart from special regimes set out in international treaties and EU law (see section 3 below).

2.9 What is your court’s approach to recognition and enforcement of a foreign judgment when there is: (a) a conflicting local judgment between the parties relating to the same issue; or (b) local proceedings pending between the parties?

A foreign judgment shall not be recognised if a final court decision on the same matter between the parties has already been reached by a Croatian court (Art. 70 para. 1 PILA).

If proceedings in the same matter initiated earlier between the parties are pending before a Croatian court, the court deciding on recognition will order the stay of proceedings until the pending court proceedings are finalised (Art. 70 para. 2 PILA).

2.10 What is your court’s approach to recognition and enforcement of a foreign judgment when there is a conflicting local law or prior judgment on the same or a similar issue, but between different parties?

PILA does not prescribe the effect of a conflicting law on the recognition and enforcement of a foreign judgment. However, in such cases the foreign judgment may not be recognised if the court finds the judgment to be contrary to the *ordre public* of the Republic of Croatia.

PILA does not prescribe the effect of a conflicting prior judgment on the same or similar issue between different parties to the recognition and enforcement of a foreign judgment. In recognition proceedings, the court only determines if requirements for recognition are met (see above question 2.3) and, if they are, the foreign judgment should be recognised and enforced by the Croatian court.

2.11 What is your court’s approach to recognition and enforcement of a foreign judgment that purports to apply the law of your country?

PILA does not prescribe the effect of a foreign judgment applying Croatian law to its recognition and enforcement. If the foreign judgment satisfies all of the prescribed requirements (see question 2.3 above), it should be recognised and enforced by the Croatian court.

2.12 Are there any differences in the rules and procedure of recognition and enforcement between the various states/regions/provinces in your country? Please explain.

Recognition and enforcement of foreign judgments is uniformly regulated across the whole of Croatia.

2.13 What is the relevant limitation period to recognise and enforce a foreign judgment?

PILA does not prescribe a limitation period for the recognition and enforcement of foreign judgments; however, claims determined by final court judgments become time-barred after 10 years (Art. 233 of the Civil Obligations Act).

3 Special Enforcement Regimes Applicable to Judgments from Certain Countries

3.1 With reference to each of the specific regimes set out in question 1.1, what requirements (in form and substance) must the judgment satisfy in order to be recognised and enforceable under the respective regime?

Hague Convention of 1 March 1954

Orders for costs and expenses of the proceedings shall be rendered enforceable in the country where enforcement is sought if, under the law of the country where the judgment was rendered, the copy of the judgment fulfils the conditions required for its authenticity, if the decision has the force of *res judicata* and if the decision is worded in the language of the authority addressed, in the agreed language or translated (Art. 19 para. 2).

Hague Convention of 19 October 1996

The Convention does not specifically prescribe requirements that measures must satisfy in order to be recognised and enforced. The measures taken by the authorities of a Contracting State shall be recognised by operation of law in all other Contracting States (Art. 23 para. 1). If measures taken in one Contracting State and enforceable there require enforcement in another Contracting State, they will be declared enforceable in that other State according to the procedure provided in the law of the latter State (Art. 26 para. 1).

Hague Convention of 23 November 2007

A decision made in one Contracting State (“the State of origin”) shall be recognised and enforced in other Contracting States if the requirements prescribed by Art. 20 para. 1 are satisfied. A decision shall be recognised only if it has effect in the State of origin and shall be enforced only if it is enforceable in the State of origin (Art. 20 para. 6).

A maintenance arrangement made in a Contracting State shall be entitled to recognition and enforcement as a decision provided that it is enforceable as a decision in the State of origin (Art. 30 para. 1).

Lugano Convention

A judgment given in a State bound by the Convention shall be recognised in the other States bound by the Convention without any special procedure being required (Art. 33 para. 1). A judgment given in a State bound by the Convention and enforceable in that State shall be enforced in another State bound by the Convention when it has been declared enforceable there (Art. 38 para. 1).

CMR

When a judgment entered by a court or tribunal of a Contracting State in legal proceedings arising out of carriage under the Convention (Art. 31 para. 1) has become enforceable in that country, it shall also become enforceable in each of the other Contracting States as soon as the formalities required in the country concerned have been complied with (Art. 31 para. 3).

COTIF

Judgments pronounced by the competent court or tribunal will, when they have become enforceable under the law applied by that court or tribunal, become enforceable in each of the other Member States on completion of the formalities required in the State where enforcement is sought (Art. 12 para. 1). This also applies to judicial settlements (Art. 12 para. 1) but does not apply to provisionally enforceable judgments, nor to awards of damages in addition to costs against a plaintiff who fails in their action (Art. 12 para. 2).

Bilateral treaties

All Croatia’s bilateral treaties regulate the recognition and enforcement of court decisions and settlements.

Requirements for recognition and enforcement may be summed up as follows:

- (i) a judgment must be final and enforceable in the country of origin;
- (ii) in case of decision by default, the summons or court order initiating the proceedings must be duly and timely delivered to the losing/absent party (all treaties except with Russia);
- (iii) a judgment is reached by a competent court (treaties with Austria, Belgium, the Czech Republic, France, Greece, Romania, Russia and Slovakia); and
- (iv) the party that was not capable of participating in the proceedings must have been duly represented (treaties with Bosnia and Herzegovina, the Czech Republic, France, North Macedonia, Russia, Slovakia, Slovenia and Turkey).

3.2 With reference to each of the specific regimes set out in question 1.1, does the regime specify a difference between recognition and enforcement? If so, what is the difference between the legal effect of recognition and enforcement?

Hague Convention of 1 March 1954

The Convention only governs enforcement (see above question 3.1).

Hague Convention of 19 October 1996

The Convention differs between recognition and enforcement of measures. Measures taken in one Contracting State and declared enforceable, or registered for the purpose of enforcement, in another Contracting State shall be enforced in the latter State as if they were taken by the authorities of that State (Art. 28).

Hague Convention of 23 November 2007

The Convention specifies a difference between recognition and enforcement. Decisions that were recognised and declared enforceable may be enforced in the State addressed, according to Chapter VI of the Convention.

Lugano Convention

The Convention differs between recognition and enforcement and ascribes the same effect as in Croatian law.

CMR and COTIF

The Conventions only regulate enforcement of judgments, not recognition.

Bilateral treaties

Almost all treaties (except those with Bosnia and Herzegovina, North Macedonia, Slovenia and Turkey) differ between recognition and enforcement but do not prescribe legal effects, which is similar to Croatian law. Some of the treaties explicitly prescribe legal effects of recognition or enforcement (Bulgaria, Greece and Poland) which are similar to Croatian law.

3.3 With reference to each of the specific regimes set out in question 1.1, briefly explain the procedure for recognising and enforcing a foreign judgment.

Hague Convention of 1 March 1954

An order for costs and expenses shall be rendered enforceable without a hearing (Art. 19 para. 1) and without charge by a competent authority (Art. 18 para. 1). The competent authority shall ascertain whether the requirements prescribed in Art. 19 para. 2 (see question 3.1 above) are satisfied (Art. 19 para. 2).

Hague Convention of 19 October 1996

The recognition and enforcement procedures are governed by the law of the State addressed (Arts 24 and 25). Therefore, Croatian law applies.

Hague Convention of 23 November 2007

The procedures for recognition and enforcement are governed by the law of the State addressed (Art. 23 para. 1). Therefore, Croatian law applies.

If the State addressed is unable to recognise or enforce the decision in its entirety, it shall recognise or enforce any severable part of the decision which can be so recognised or enforced (Art. 21). Procedure for a motion for recognition and enforcement is prescribed in Art. 23 paras 2–11. A State may declare, in accordance with Art. 63, that it will apply the procedure for recognition and enforcement set out in Art. 24.

There shall be no review of the merits of a decision (Art. 28).

Proceedings for recognition and enforcement of a maintenance arrangement shall be suspended if a challenge concerning the arrangement is pending before a competent authority of a Contracting State (Art. 30 para. 6).

Lugano Convention

A judgment is recognised without any special procedure being required (Art. 33 para. 1).

The motion for declaration of enforceability shall be submitted to the court or competent authority indicated in Annex II (Art. 39 para. 1). The judgment will be declared enforceable after completion of the formalities in Art. 53 without any review under Arts 34 and 35 (Art. 41). The declaration of enforceability shall be served on the party against whom enforcement is sought, accompanied by the judgment, if not already served (Art. 42 para. 2). Under no circumstances may the foreign judgment be reviewed as to its substance (Art. 45 para. 2).

CMR and COTIF

The Conventions do not regulate a procedure for enforcement of judgments. A judgment shall become enforceable in each of the other Contracting States as soon as the formalities required in the country concerned have been complied with (Art. 31 para. 3 CMR and Art. 12 para. 1 COTIF).

Bilateral treaties

None of the treaties prescribe the procedure for recognition and enforcement. All specifically prescribe that the enforcement law procedure of the country where enforcement is sought applies, while some treaties (Belgium, Bosnia and Herzegovina, France, North Macedonia, Slovenia and Turkey) prescribe that the procedure for recognition of the country where recognition is sought applies. Therefore, Croatian law applies.

3.4 With reference to each of the specific regimes set out in question 1.1, on what grounds can recognition/enforcement of a judgment be challenged under the special regime? When can such a challenge be made?

Hague Convention of 1 March 1954

The Convention does not specifically prescribe grounds for refusal of enforcement. Enforcement of the order for costs and expenses might be challenged on the grounds that it does not satisfy the requirements prescribed in Art. 19 para. 2 (see above question 3.1).

Hague Convention of 19 October 1996

Recognition, declaration of enforceability or registration of measures may be refused in cases prescribed in Art. 23 para. 2 and Art. 26 para. 3.

Hague Convention of 23 November 2007

Recognition and enforcement of a decision or maintenance arrangement may be refused in cases prescribed in Art. 22 and Art. 30 para. 4.

Lugano Convention

A judgment shall not be recognised:

- (1) if such recognition is manifestly contrary to public policy in the State in which recognition is sought;
- (2) 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 them to arrange for their defence, unless the defendant failed to commence proceedings to challenge the judgment when it was possible for them to do so;

- (3) if it is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought; or
- (4) if it is irreconcilable with an earlier judgment given in another State bound by this Convention or in a third State involving the same cause of action and between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in the State addressed (Art. 34).

A judgment shall not be recognised if it conflicts with Sections 3, 4 or 6 of Title II, or in a case provided for in Art. 68. Furthermore, a judgment may be refused recognition in any case provided for in Art. 64(3) or 67(4) (Art. 35 para. 1).

With regard to declaration of enforceability, the court with which an appeal is lodged under Art. 43 or 44 shall refuse or revoke a declaration of enforceability only on one of the grounds, due to which a judgment shall not be recognised (Art. 45).

CMR and COTIF

The Convention does not prescribe grounds for challenging the enforceability of judgments. A judgment shall become enforceable in each of the other Contracting States as soon as the formalities required in the country concerned have been complied with (Art. 31 para. 3 CMR and Art. 12 para. 1 COTIF). Therefore, in Croatia, the recognition and enforcement of a foreign judgment may be challenged on the grounds stated in question 2.7. above.

Bilateral treaties

Reasons for refusal of recognition and enforcement may be summed up as follows:

- (i) the judgment is contrary to the *ordre public* of the country where recognition and/or enforcement is sought;
- (ii) a final decision in the same matter was reached in the country where recognition and enforcement is sought (all treaties except those with Belgium and France);
- (iii) some treaties (Bulgaria, the Czech Republic, Greece, North Macedonia, Poland, Romania, Russia and Slovakia) prescribe that recognition and enforcement will be refused only if the said decision is reached before the judgment whose recognition and enforcement is sought; and
- (iv) if there are pending proceedings initiated prior to the judgment in the same matter in the country where recognition and enforcement is sought (Belgium, Bosnia and Herzegovina, France, North Macedonia, Russia and Slovenia).

The treaty with Turkey prescribes that proceedings only have to be pending:

- (v) if the court of the country where recognition and enforcement is sought has exclusive jurisdiction in the matter (Bosnia and Herzegovina, Bulgaria, North Macedonia, Poland, Slovenia and Turkey).

Treaties with Austria and Belgium prescribe that the decision which was reached in proceedings in which the defendant was *in absentia* and exclusively represented by an appointed representative will not be recognised and enforced.

Treaties with Belgium and France prescribe that recognition and enforcement will be refused if a decision was reached in a third country in the same matter and requirements for recognition and enforcement of the said decision in the country where recognition and enforcement is sought are satisfied.

In certain treaties, some of the above reasons for refusal of recognition and enforcement are prescribed in negative form as requirements for recognition and enforcement.

4 Enforcement

4.1 Once a foreign judgment is recognised and enforced, what are the general methods of enforcement available to a judgment creditor?

According to the EA, depending on the type (monetary or non-monetary claim) and the amount, a claim may be fulfilled through enforcement actions prescribed by the EA on various objects of enforcement. The objects of enforcement according to the EA are real estate, movable assets, monetary claims, stocks, shares, securities and other material or property rights.

5 Other Matters

5.1 Have there been any noteworthy recent (in the last 12 months) legal developments in your jurisdiction relevant to the recognition and enforcement of foreign judgments? Please provide a brief description.

On 28 November 2020, the amended EA entered into force. Starting from 15 September 2021, “motions for enforcement” are submitted using forms, containing specifically prescribed fields,

which can be filled out but not altered. Although not explicitly prescribed by either the EA or PILA, the forms should also be used when filing for recognition and enforcement of foreign judgments, since the “motion for enforcement” is an integral part of the “motion for recognition and enforcement”. Since this is a very recent amendment, there is no published court practice in this regard.

5.2 Are there any particular tips you would give, or critical issues that you would flag, to clients seeking to recognise and enforce a foreign judgment in your jurisdiction?

Court taxes in recognition and enforcement proceedings are subject to the value of the claim and range between approx. EUR 100.00 and EUR 1,400.00.

All documentation should be translated into the Croatian language by a licensed court interpreter.



Anita Krizmanic is a Partner at Macesic and Partners LLC, Croatia. Her main areas of practice are dispute resolution/litigation, maritime and transport law, insurance, restructuring and bankruptcy and labour/employment law. She is an experienced lead counsel who acts as correspondent in domestic and cross-border litigation before courts and arbitral tribunals in complex disputes. Anita has been with the firm for 20 years and is currently the office team leader in her areas of practice. She is a Protection and Indemnity (P&I) Clubs correspondent in Croatia and a regular contributor to a number of publications, one of which is co-published by the World Bank and International Finance Corporation.

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