

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
Act No. 91/2012 Coll., on international private law (the “International Private Law Act”).	All jurisdictions to which no bilateral or multilateral conventions apply.	Section 2.
Multilateral conventions.	Signatory states to the multilateral conventions.	Section 2.8.
Bilateral treaties.	Afghanistan, Albania, Algeria, Australia, Austria, the Bahamas, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Cuba, Cyprus, Eswatini, Fiji, France, the Gambia, Georgia, Germany, Greece, Hong Kong, Hungary, Italy, Kazakhstan, Kenya, Kosovo, Kyrgyzstan, Lesotho, Macedonia, Moldova, Monaco, Mongolia, Montenegro, Nauru, New Zealand, North Korea, Poland, Portugal, Republic of South Africa, Romania, Russia, Serbia, Slovak Republic, Slovenia, Spain, Switzerland, Syria, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Uzbekistan, Vietnam, Yemen.	Section 3.

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?

Where no international laws or treaties are applicable to a particular case, the recognition and enforcement of foreign judgments is governed by the International Private Law Act.

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

A foreign “judgment” capable of recognition in the Czech Republic may constitute a judgment of a foreign court or a decision of a foreign authority on private law matters which would fall under the jurisdiction of civil courts in the Czech Republic, as well as foreign court settlements, arbitral awards, notarial deeds or other public documents on such matters.

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

In order to be recognised in the Czech Republic, a foreign judgment must be final, which has to be confirmed by the corresponding foreign authority (usually the issuing court).

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 section 16(2) of the International Private Law Act, a foreign judgment will be recognised by the court of the district where the creditor under such judgment is domiciled; in the absence of such court in the Czech Republic, the foreign judgment will be recognised in the court of the district where any event, for which the recognition is relevant, may occur (typically where the judgment debtor’s assets are located). Absent any of the above grounds connecting the foreign judgment and its enforcement with the Czech Republic, jurisdiction for recognition may potentially be rejected by the Czech courts.

Under section 252 of Act No. 99/1963 Coll., code of civil procedure (the “**Civil Procedure Code**”), the court having jurisdiction with respect to the enforcement of a foreign judgment is generally either the district court of the debtor’s residence, or the court of the district where the debtor’s assets are located.

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

Despite there being a close connection between the two, it is necessary to differentiate between decisions on the recognition and on the enforcement of a foreign judgment.

Decisions in non-property matters (e.g. child custody decisions, etc.) generally require a decision on recognition. Such judgments are also generally not enforced by their nature.

There is no separate decision on the recognition of foreign judgments in property matters where the court merely reviews the conditions for recognition; if such conditions have been met, the court will accept the foreign judgment as if it were a Czech judgment when deciding on the commencement of enforcement. However, should the judgment creditor request a special resolution on the recognition of the judgment, the court may issue this as well. This may be relevant, for instance, in the event that there are two opposing judgments that have been issued in different jurisdictions – once one of these judgments is recognised by a Czech court, the opposing judgment cannot be enforced in the Czech Republic.

The above distinction was mostly relevant under legislation applicable until 31 December 2021. This legislation, *inter alia*, provides for two available methods of enforcement: judicial enforcement (by court officials); and enforcement by semi-private bailiffs (executors), the latter of which has become the most widely used method of enforcement, due to its numerous advantages compared to judicial enforcement. While it was always possible to file a motion for judicial enforcement of a foreign judgment with no separate decision on recognition being required, this was not the case for executor enforcement, where the recognition of the foreign judgment was a pre-condition for its enforcement. Applicable legislation and Supreme Court case law required that in order to successfully commence enforcement of a foreign judgment by an executor, the foreign judgment needed to be recognised by a special court resolution beforehand. In some cases, this could have led to substantial delays in the process of enforcement.

However, as of 1 January 2022, an amendment to Act No. 120/2001 Coll., execution code (the “**Execution Code**”) came into effect, which removed the above obstacle. Therefore, it is currently possible to file a motion for the commencement of executor enforcement of a foreign judgment without the need to obtain a special resolution on the recognition of such judgment beforehand. Instead, the motion for enforcement now also contains a motion for the recognition of the foreign judgment. The court, which has jurisdiction to authorise the executor to carry out the enforcement, will then simultaneously decide on the recognition of the foreign judgment.

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

Judicial enforcement

Judicial enforcement of a foreign judgment is commenced following the creditor’s application to the court. In the application,

the creditor has to choose a particular method of enforcement and specifically identify the debtor’s assets that should be seized by judicial enforcement.

Provided that all formal conditions are met, the court will order enforcement in the manner specified by the creditor without issuing a special resolution on recognition. This decision may be appealed by the debtor, with such appeal having suspensive effect; consequently, enforcement cannot begin until the appeal is resolved. Provided that the debtor did not file an appeal or did not succeed with their appeal, enforcement is then carried out by the court’s employees.

Executor enforcement

To commence executor enforcement, the judgment creditor files a motion with an executor of the creditor’s choice. The executor then forwards the motion to a competent enforcement court which, provided all formal requirements have been met, appoints the executor to carry out the enforcement of the judgment in question. As mentioned above, as of 1 January 2022, no special decision on recognition is required. Executors act as public officials during enforcement proceedings and in carrying out associated tasks.

Upon being authorised by the enforcement court, the executor identifies the debtor’s assets and issues enforcement orders for the purpose of seizing such assets.

Before issuing any execution orders to seize any of the debtor’s assets, the executor must provide the debtor with a 30-day period for voluntary payment.

Any seized assets that are not of a financial nature are then sold by the executor (usually in a public auction), and the proceeds therefrom are paid to the creditor.

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

The grounds on the basis of which the recognition/enforcement of a judgment can be challenged are set out in the International Private Law Act; section 15 thereof provides for the general obstacles to recognition and enforcement of a foreign judgment. A foreign judgment cannot be recognised or enforced in the Czech Republic if:

- its recognition is hindered by the exclusive jurisdiction of the Czech courts with respect to the matter in question or if the proceedings could not be conducted by an authority of a foreign state, should the rules concerning the competence of Czech courts be applied to the determination of the jurisdiction of the foreign authority. For example, Czech courts have exclusive jurisdiction in proceedings concerning real estate property located in the Czech Republic;
- there are pending proceedings on the same legal matter before a Czech court and such proceedings commenced earlier than the foreign proceedings, which led to the judgment of which recognition is being sought (*lis pendens*);
- a Czech court has issued a final judgment on the same legal matter, or a final judgment on the same matter has been issued by an authority of a foreign state and recognised in the Czech Republic (*res judicata*);
- through its procedure, the foreign authority deprived the party, against whom the judgment to be recognised was issued, of due process; i.e. the possibility to duly participate in the proceedings, particularly if the party had not been personally served with a summons or a motion to commence the proceedings;
- the recognition is contrary to the Czech Republic’s public policy (public order); or

- reciprocity is not guaranteed, i.e. if the country where the foreign judgment was issued does not guarantee the recognition of Czech judgments. Reciprocity is not required if the foreign judgment is not directed against a citizen of the Czech Republic or a Czech legal entity. The Ministry of Justice may issue a declaration of reciprocity with respect to a certain state, following which Czech courts will recognise and enforce judgments from that state. In the absence of such a declaration, a Czech court may seek to confirm with the authorities of the state concerned whether they can guarantee reciprocity.

Furthermore, section 268 of the Civil Procedure Code contains the following grounds on the basis of which the judgment debtor may seek termination of enforcement:

- enforcement was ordered despite the judgment not yet being enforceable;
- the judgment on which enforcement is based has been reversed or has become ineffective after the enforcement was ordered;
- enforcement of a judgment affects items that are excluded from enforcement by law, or property from which the receivable to be enforced may not be satisfied;
- it appears that the proceeds obtainable through enforcement will not be sufficient to cover the costs of enforcement;
- enforcement affects property to which a person other than the debtor has a right, which prevents the enforcement of the judgment;
- a right conferred by a previously issued judgment has expired. This objection cannot be used if enforcement has already been carried out; and
- enforcement is not admissible because of another reason for which the judgment cannot be enforced.

This last of the above grounds is very general and therefore allows the debtor to present the court with essentially any reason which may be relevant in order for enforcement to be suspended or terminated.

All of the above challenges may be raised by the debtor at any stage of the enforcement proceedings. Motions to terminate enforcement proceedings may be filed repeatedly if new grounds arise.

Enforcement of a judgment may also be suspended in the event that the judgment debtor is (without being at fault) in a temporary situation where the imminent enforcement would cause substantial negative consequences to the judgment debtor or their family, provided that the judgment creditor will not be substantially harmed by the temporary suspension of enforcement. The court may also suspend enforcement if it appears likely that enforcement will be terminated on any of the grounds set out above.

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

Apart from the already mentioned distinction between judgments in property matters and other judgments, there are certain subject matters that are governed by international treaties and conventions.

- The Geneva Convention of 19 May 1956 on the Contract for the International Carriage of Goods by Road applies to specific commercial activities and subject matters, and contains provisions for reciprocal enforcement provided that the formal conditions set out therein have been met.
- The Hague Convention of 15 April 1958 on the Recognition and Enforcement of Decisions Relating to Maintenance

Obligations towards Children governs the reciprocal recognition and enforcement of decisions relating to maintenance obligations in respect of children.

- The Hague Convention of 1 June 1970 on the Recognition of Divorces and Legal Separations governs the reciprocal recognition of decisions relating to divorces and legal separations.
- The Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations governs the reciprocal recognition and enforcement of decisions relating to maintenance obligations in respect of both adults and children.
- The European Convention of 5 October 1973 on the Grant of European Patents applies to specific commercial activities and contains provisions for reciprocal enforcement.
- The Convention of 9 May 1980 concerning International Carriage by Rail applies to specific commercial activities and contains provisions for reciprocal enforcement.
- The European Convention of 20 May 1980 on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children governs the reciprocal recognition and enforcement of decisions concerning custody of children.
- The Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement, and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children applies to questions of parental responsibility and contains provisions for reciprocal recognition and enforcement.

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 conflicting local judgment between the parties relating to the same matter, as well as pending local proceedings between the same parties relating to the same issue, may both fall under the obstacles to recognition and enforcement set out in section 15 of the International Private Law Act, as set out above.

If a Czech court has issued a final decision on the same legal matter, the foreign judgment cannot be recognised or enforced in the Czech Republic (under the *res judicata* principle).

If there are pending proceedings concerning the same legal matter before a Czech court and such proceedings commenced earlier than the proceedings in which the foreign judgment was issued (*lis pendens*), the foreign judgment cannot be recognised or enforced in the Czech Republic. However, if the foreign proceedings have commenced earlier than the Czech proceedings, the foreign judgment may be recognised and enforced; in such case, the Czech proceedings should be terminated on the basis of the *res judicata* principle.

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?

Recognition and enforcement of a foreign judgment which in some way conflicts with local law may be rejected on the basis of the public policy objection. The enforcement of such judgment could also be challenged on the general grounds set out in section 268(1)(h) of the Civil Procedure Code, i.e. that "another

reason for which the judgment cannot be enforced” exists. The possibility of enforcing such judgment would depend on the extent and significance of the conflict with local law.

A conflicting local law judgment on the same or similar matter between different parties will have no effect on the recognition and enforcement of a foreign judgment. That is provided there is no fundamental conflict between the foreign judgment and the case law of the Constitutional Court. The recognition and enforcement of a foreign judgment may also be potentially rejected on public policy grounds.

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?

When enforcing a foreign judgment, Czech courts generally do not review the judgment as to its substance unless prompted to do so by either party. Therefore, the mere application of Czech law in a foreign judgment should not affect the court's approach to recognition and enforcement of that judgment.

However, if a foreign judgment contains a clearly incorrect application of Czech law, the judgment debtor could successfully object to the enforcement of such judgment.

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.

The rules and procedure of recognition and enforcement are the same in all regions of the Czech Republic.

There have recently been efforts to amend legislation concerning executors in order to establish the territoriality of executors, essentially meaning that a particular executor could only enforce judgments against debtors residing in their region. However, these proposals have been rejected amid concerns regarding a potential decrease in executor enforcement efficiency. Any judgment creditor may therefore still request the appointment of an executor of their choosing.

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

The limitation period of any right which follows from a decision of a public authority is 10 years from the date the obligation imposed by the decision should have been fulfilled (in accordance with the said decision). The limitation period is suspended once the creditor files a motion for recognition and enforcement of the foreign judgment in question.

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?

The scope of application of bilateral treaties with countries that are members of the EU or signatories to other multilateral conventions is limited. These bilateral treaties are applicable only to issues not regulated by EU law or multilateral conventions.

The general requirement of all the bilateral treaties set out above is that the relevant foreign judgment must be final, binding and enforceable in the state of its origin. In certain cases, the bilateral treaties also explicitly require that no general obstacles to recognition and enforcement, such as due process, no conflicting prior judgment, public policy, etc., exist.

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?

The bilateral treaties referred to at question 1.1 differentiate between recognition and enforcement; they generally provide for recognition as the prerequisite of enforcement.

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.

The general rule is that if the conditions set out in the respective bilateral treaties are met (e.g. absence of obstacles to recognition and enforcement), judgments originating in states that are parties to the above bilateral treaties will be recognised in the Czech Republic, and enforcement proceedings may consequently be commenced on the basis thereof under local laws. The procedure for recognition/enforcement is then generally the same as set out above.

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?

Some bilateral treaties contain specific grounds on the basis of which recognition and enforcement may be challenged, which generally correspond to the obstacles to recognition and enforcement under Czech law (e.g. due process, conflicting prior judgment, public policy, etc.).

Although not all bilateral treaties provide for specific grounds for challenging recognition and enforcement, all the challenges available under Czech law (see question 2.7 above) remain applicable and may be used to challenge recognition and enforcement by the judgment debtor during the course of the enforcement proceedings.

4 Enforcement

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

As already outlined in questions 2.5 and 2.6 above, the Czech legal system offers two methods of enforcement: judicial enforcement carried by court officials; and executor enforcement carried out by semi-private bailiffs (executors).

Since the introduction of executor enforcement in 2001, judicial enforcement has generally become a very rarely used method of enforcement as it has numerous disadvantages, the most significant of which is that the judgment creditor needs to identify specific assets of the debtor that are to be targeted by judicial enforcement. In many cases, the judgment creditor does not have any readily available means of identifying such assets.

Executors, on the other hand, will use their powers to actively search for and seize the debtor's assets. Banks and other institutions are obliged to answer an executor's enquiries into any accounts owned by a debtor and freeze such accounts upon an executor's order. An executor may also issue an order for attachment of the debtor's monthly earnings from their employer. Also, once the judgment debtor is served with the resolution on the commencement of execution proceedings, the debtor is prohibited from disposing of any assets, and any actions contrary to this order will be deemed invalid. In judicial enforcement, the prohibition of disposal always only concerns assets specifically identified by the creditor.

Executor enforcement is therefore much more efficient than judicial enforcement. This is also due to the fact that executors are financially motivated to be effective, as their remuneration depends on the amount enforced.

Other disadvantages of judicial enforcement include the obligation of the judgment creditor to pay a court fee (generally amounting to 5% of the amount to be enforced) before enforcement is even commenced. Although this amount is then added to the amount to be enforced, certain judgment creditors may find the obligation to pay the court fee upfront discouraging, in particular when there are doubts with regard to the outcome of the judicial enforcement. An executor's remuneration and costs do not have to be paid upfront and are usually covered by the proceeds of the enforcement, though if there are no proceeds from executor enforcement, the judgment creditor may end up having to pay the costs of execution proceedings themselves. Executor enforcement is also more time efficient.

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.

As already indicated in question 2.5 above, an amendment to the Execution Code came into effect on 1 January 2022, as a result of which judgment creditors may now file a motion for executor enforcement of a foreign judgment without having to obtain a separate decision on the recognition of that foreign judgment first. The court, which has jurisdiction to authorise the executor to commence enforcement, will simultaneously issue a decision on the recognition of the foreign judgment, provided that all formal conditions are met.

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?

In general, we recommend securing legal representation in order to enforce any foreign judgment in the Czech Republic. The legal fees associated with the enforcement of foreign judgments are usually not too high as, in most cases, the creditor's counsel only needs to provide the executor with a motion for the commencement of enforcement proceedings and the necessary supporting documents. The rest is carried out by the executor and the court. The process may become more costly in cases where a debtor challenges the recognition or enforcement of the foreign judgment and/or files motions for the termination of enforcement proceedings for any available reason. Nevertheless, and in such cases especially, it is not advisable for foreign creditors to attempt to deal with the matter without legal counsel.

As already outlined above, it is generally advisable to proceed with executor enforcement as opposed to judicial enforcement, due to the several advantages of the former.



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