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Brazil

Enforcement of Judgments in Civil and Commercial Matters

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in Brazil.

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Brazil: Enforcement of Judgments in Civil and Commercial Matters

1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

Brazil is party to several multilateral and bilateral instruments on judicial cooperation, which facilitate cross-border judicial proceedings, but the recognition of foreign judgments in Brazil remains subject to the jurisdiction and procedural framework established by the Brazilian Constitution and applicable domestic legislation. A foreign judgment only produces effects in Brazil after confirmation by the Superior Court of Justice (Superior Tribunal de Justiça, or STJ) in recognition proceedings known as homologação.

At regional level, the most relevant are the Las Leñas Protocol on Judicial Cooperation and Assistance in Civil, Commercial, Labour and Administrative Matters, concluded within Mercosur and promulgated by Decree 2,067/1996, and the Inter-American Convention on the Extraterritorial Validity of Foreign Judgments and Arbitral Awards (Montevideo, 1979), promulgated by Decree 2,411/1997. Both set out conditions for recognition (finality, jurisdiction of the rendering court, proper service, capacity of the parties and compatibility with public policy) which broadly mirror those of Brazilian domestic law.

Brazil has also concluded bilateral agreements on civil judicial cooperation with, among others, Argentina (Decree 1,560/1995), Uruguay (Decree 1,850/1996), Spain (Decree 166/1991), Italy (Decree 1,476/1995), France (Decree 3,598/2000) and China (Decree 8,430/2015), which typically dispense with consular legalisation and provide for transmission through central authorities.

Several further instruments matter in practice without properly governing recognition: the Hague Apostille Convention of 1961, in force for Brazil since 2016; the Hague Service Convention of 1965, promulgated by Decree 9,734/2019, the Hague Evidence Convention of 1970, promulgated by Decree nº 9.039/2017 and, for arbitral awards, the 1958 New York Convention, promulgated by Decree 4,311/2002.

2. What, if any, reservations has your jurisdiction made to such treaties?

Brazil acceded to the New York Convention without the reciprocity or commercial reservations permitted by Article I(3), so the Convention applies to any foreign award irrespective of the seat or of the commercial character of the dispute.

Under the Hague Service Convention of 1965, Brazil objected to the alternative channels of Articles 8 and 10: service by postal channels, by judicial officers or directly by the interested party is not admitted, and requests must travel through the Ministry of Justice and Public Security as central authority, accompanied by a translation into Portuguese. In addition, Brazil made a declaration in respect of Articles 5(3) and 7 (2), according to which documents transmitted to the Brazilian authority for service or notification must be accompanied by a Portuguese translation.

No material reservations have been entered under the Las Leñas Protocol or the Montevideo Convention. The Brazilian courts have consistently held that neither instrument dispenses with recognition proceedings before the Superior Court of Justice.

3. Can foreign judgments be enforced in your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

Yes, In Brazil, the ordinary route for the recognition and enforcement of foreign judgments and arbitral awards is governed by the Constitution, by the Brazilian Code of Civil Procedure and The Brazilian Arbitration Act.

Under Article 105(I)(i) of the Brazilian Constitution, the Superior Court of Justice (Superior Tribunal de Justiça, or STJ) has original jurisdiction to recognize foreign judgments. Recognition does not depend on a treaty or on reciprocity. Articles 960 to 965 of the Brazilian Code of Civil Procedure of 2015 and Articles 216-A to 216-X of the Internal Rules of the Superior Court of Justice provide the rules under which any foreign judgment in civil or commercial matters may be submitted for recognition, provided the statutory conditions are met.

As for the recognition and enforcement of arbitral awards,

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the Brazilian Arbitration Act (Law No. 9,307/1996) contains specific provisions governing foreign arbitral awards. In particular, Articles 34 to 40 of the Act establish the applicable framework, and Article 35 expressly provides that a foreign arbitral award must be submitted to the Superior Court of Justice for recognition before it may be enforced in Brazil.

Most foreign judgments recognised in Brazil come through this general regime. Where a treaty exists it applies concurrently and eases authentication burden, but it does not create a separate enforcement track and/or dismisses the necessary recognition by the Superior Court of Justice.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

Article 963 of the Code of Civil Procedure lists cumulative conditions: (i) the judgment must have been rendered by a competent authority in the country of origin; (ii) the defendant must have been duly served or default lawfully declared; (iii) the decision must be effective in the country of origin; (iv) it must not offend *res judicata* attaching to a Brazilian judgment; (v) it must be accompanied by a sworn translation, unless a treaty provides otherwise; and (vi) it must not manifestly offend Brazilian public policy. The Internal Rules add proof that the decision needs to be final and no longer subject to ordinary appeal, a requirement well-established in Precedent 420 of the Federal Supreme Court.

Recognition is not confined to money judgments and can also be used to interim decisions. Under 961 Article (1) of the Brazil Code of Civil Procedure, a definitive foreign judicial decision may be recognized, including declaratory judgments, orders for specific performance, insolvency and corporate decisions, and decisions on the validity or termination of contracts. A foreign interlocutory decision granting urgent relief is ordinarily implemented through a rogatory letter under Articles 960 (1) and 962. Once recognized, non-monetary relief is given effect by the federal courts under Articles 536 to 538 of the Code, including through daily penalties (*astreintes*).

Recognition may be granted *in part* under Article 961, paragraph 2, of the Brazilian Code of Civil Procedure, and foreign acts can also be performed in Brazil through rogatory letter, a sort of expedited recognition before the Superior Court of Justice.

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

Even where a treaty applies, the path is the same: an application for recognition before the Superior Court of Justice, followed by enforcement before a federal court of first instance. The treaties change lateral aspects of the procedure, such as notice, translation and recognition of evidence.

Under the Las Leñas Protocol, a judgment from Argentina, Paraguay or Uruguay may be transmitted through letters rogatory routed via the central authorities, dispensing consular legalisation and the diplomatic channel. The same applies to the Hague Convention. The Superior Court of Justice has consistently held that the Protocol simplifies transmission without dispensing with recognition, so the applicant must still demonstrate the conditions of Article 963 of the Code of Civil Procedure. The Montevideo Convention operates similarly for the wider region.

It is also important to note that the Superior Court of Justice has relevant precedents regarding the possibility of notification of foreign company through its Brazilian subsidiaries, which shortens the process of summoning.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

The applicant files an electronic petition addressed to the President of the Superior Court of Justice, represented by a Brazilian lawyer, with the original or a certified copy of the judgment, proof of its final character, proof of service or of a lawful default in the proceedings in which the judgment was rendered, and sworn translations of all documents. Court fees are payable on filing.

The defendant is then summoned, by letter rogatory if domiciled abroad, or by ordinary judicial notice if resident in Brazil, and has 15 days to respond. The defence is restricted to the questions provided for in articles 216-C, 216-D and 216-F of the Internal Rules of STJ, such as formal requisites, competent authority, proof of notice or regular absence in the procedure of origin, proof that the decision is final, and offense to public policy, national sovereignty and human rights.

If the defendant does not appear, a special attorney (*curador especial*) is appointed. The Federal Prosecution Service intervenes in every case and may itself oppose recognition on public policy grounds. Uncontested

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applications are decided by the President sitting alone; contested applications are decided by the Special Court (*Corte Especial*).

Once recognition is granted, the applicant extracts a certified record (*carta de sentença*) and files enforcement proceedings before a federal court of first instance under Article 965 of the Code of Civil Procedure. From that point the foreign judgment is enforced as a domestic. The debtor is served under Article 523 and has 15 days to pay, failing which a 10% penalty and 10% lawyers' fees are added and interest and adjustment follows. Enforcement means are open, including through the electronic systems for the seizure of bank funds, vehicles and property.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

The judgment must be produced in the original or in a copy certified by the foreign court, and it must be authenticated. Since the Apostille Convention entered into force for Brazil in 2016, an apostille from the competent authority of the state of origin suffices for documents from other contracting states. Consular legalisation remains necessary for documents from non-contracting states, and is dispensed when a bilateral provides for transmission through central authorities.

A sworn translation into Portuguese, prepared by a translator sworn before a Brazilian commercial registry, is required for the judgment and for every supporting document unless a treaty provides otherwise. In practice the court also expects a certificate or equivalent evidence confirming that the decision is final and no longer subject to ordinary appeal.

Also, the foreign decision must be rendered by the competent authority, there must be proof of notice or regular absence in the procedure of origin, and there can be no offense to public policy, national sovereignty and human rights in its content.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

There is no separate summary procedure, but the recognition procedure is itself streamlined and entirely electronic. An uncontested application in which the defendant is domiciled in Brazil and the documents are in order is commonly decided within four to eight months.

Where the defendant must be served abroad by letter rogatory, the time taken by the foreign central authority becomes the dominant variable and 12 to 24 months is realistic, although service under the Hague Service Convention has shortened.

A contested application will normally take between 18 months and three years. Enforcement before the federal court is a separate exercise whose duration depends on the debtor's assets and on the intensity of the defence, typically adding one to three years.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while the enforcement or registration procedure takes place?

Yes. Article 961 (3) of the Brazilian Code of Civil Procedure authorizes urgent relied and provisional enforcement within recognition proceedings, and Article 216-G of the Internal Rules of the Superior Court of Justice also permits urgent relief has used that power to freeze assets and to preserve the subject matter of the foreign decision pending judgment. The applicant must show a plausible right and a risk that delay will frustrate the outcome.

Relief may also be sought before recognition is applied for. Under Article 962 of the Code of Civil Procedure, an urgent measure ordered by a foreign court may be given effect through a letter rogatory granted *exequatur*, without prior recognition of the merits. Alternatively, the creditor may commence free-standing interim proceedings before the Brazilian court that would have jurisdiction over the enforcement, under Articles 300 and following of the Code. This is usually the fastest route to protection where dissipation can be evidenced.

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

Brazilian law lays down no specific limitation period for applying for recognition, and the Superior Court of Justice has not treated the application itself as time-barred. The question arises at the enforcement stage, where the guiding rule is Precedent 150 of the Federal Supreme Court: enforcement is subject to the same limitation period as the underlying claim.

The debtor may therefore argue that the claim embodied in the foreign judgment has become time-barred under Articles 205 and 206 of the Civil Code.

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11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

The grounds are narrow and essentially mirror Article 963 of the Code of Civil Procedure. The defendant may argue (i) that the rendering court lacked jurisdiction by Brazilian standards, in particular that the matter fell within the exclusive jurisdiction of the Brazilian courts under Article 23; (ii) that service was not effected or default not lawfully declared; (iii) that the decision is not final or effective in the state of origin; (iv) that it conflicts with a Brazilian judgment that has acquired *res judicata*; (v) that the formal and translation requirements are unmet; or (vi) that recognition would manifestly offend public policy, national sovereignty or human dignity.

Article 23 of the Brazilian Code of Civil Procedure is the most frequent obstacle in civil and commercial matters. The Brazilian courts have exclusive jurisdiction over actions concerning immovable property situated in Brazil, over succession and the distribution of assets situated in Brazil, and over the division of assets situated in Brazil in family proceedings. A foreign judgment trespassing on any of these will be refused recognition in whole or in part.

At the enforcement stage the debtor may additionally raise, by way of *impugnação* under Article 525 of the Code, defences arising after recognition (*e.g.*, payment, set-off, novation or limitation) and objections to the calculation, none of which reopens the merits of the foreign judgment.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

No. Recognition follows the system of limited review (*juízo de delibação*). The Superior Court of Justice examines whether the formal and public policy conditions are satisfied, and does not review the findings of fact, the assessment of evidence or the application of foreign law. A submission that the foreign court reached the wrong result is inadmissible.

The single qualification is that public policy review necessarily involves reading the foreign decision. The court does so in order to test the outcome against fundamental principles of Brazilian law, not to substitute its own view of the dispute.

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

Yes, but indirectly. The Superior Court of Justice does not apply the jurisdictional rules of the state of origin. It asks whether, from the Brazilian standpoint, the foreign court could legitimately have exercised jurisdiction. The test is essentially negative: recognition is refused only where the dispute fell within the exclusive jurisdiction of the Brazilian courts under Article 23 of the Code of Civil Procedure.

The heads of concurrent jurisdiction in Articles 21 and 22 (defendant domiciled in Brazil, obligation to be performed in Brazil, claim arising from a fact occurring in Brazil, consumer and maintenance claims) do not preclude recognition, since Brazilian jurisdiction in those cases is concurrent rather than exclusive. Choice-of-court agreements designating a foreign forum are enforceable in Brazil provided they concern an international contract and are not abusive, which further supports recognition of judgments rendered by the chosen court.

The defendant's, the contract's or obligation's connection with the foreign forum is relevant, and a judgment rendered on a plainly exorbitant jurisdictional basis may be resisted on public policy grounds.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

Service is scrutinized closely and is, with proof of finality, the most common argument to challenge the enforcement. Where the defendant was domiciled in Brazil, the Superior Court of Justice requires service through a letter rogatory transmitted by the proper channel or through the Hague Service Convention. Service on a Brazilian-domiciled defendant by post, by private agent or by simple publication in a foreign newspaper is treated as a violation of Brazilian sovereignty and of the constitutional guarantee of adversarial process, and recognition is refused.

Where the defendant was domiciled outside Brazil the position is more flexible: it is enough that service complied with the law of the place where it was effected and that the defendant had a real opportunity to defend. Service by post is accepted in that situation if valid under the applicable foreign rules.

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Default judgments are recognizable in principle, provided the applicant shows that the defendant was duly served and simply did not appear and that default was declared in accordance with the law of origin. Judgments rendered without effective notice are not recognized.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

No, as recognition is a bound decision. If the conditions of Article 963 of the Code of Civil Procedure and of the Internal Rules are met, the Superior Court of Justice must grant it, and if they are not, it must refuse. There is no residual power to decline on grounds of convenience, and Brazilian law knows no doctrine of *forum non conveniens* in this context.

A degree of judgement is nonetheless inherent in the public policy control, an open-textured standard applied case by case, and in the power of partial recognition, which allows the court to calibrate the effects given to the foreign decision.

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

Judgments intruding upon the exclusive jurisdiction of the Brazilian courts under Article 23 cannot be recognised, whatever their merits, nor can foreign tax and penal decisions or decisions incompatible with a Brazilian judgment that has acquired *res judicata*.

Punitive and multiple damages are the most debated category. Brazilian civil liability is compensatory in principle, and exemplary awards disconnected from proven loss are frequently said to be incompatible with public policy. The Superior Court of Justice has not adopted a categorical rule of refusal, and the analysis is made case by case: an award will be resisted successfully where the punitive component is manifest and grossly disproportionate to the harm, whereas a global award that is generous by Brazilian standards but rationally connected to the damage suffered will normally be recognised.

Where the punitive element is severable, partial recognition offers an intermediate solution. Anti-suit injunctions directed at proceedings pending in Brazil are also problematic, being difficult to reconcile with the constitutional guarantee of access to the courts.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

As a rule, no. Precedent 420 of the Federal Supreme Court states that a foreign judgment will not be recognized without proof that it has become final, and the Superior Court of Justice applies that rule strictly where an ordinary appeal remains available in the state of origin. An application filed while such an appeal is pending will normally be stayed or dismissed.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

Yes, although the avenues are narrow. A decision of the President of the Superior Court of Justice granting or refusing recognition may be challenged by an internal appeal (*agravo interno*) to the Special Court within 15 days. A judgment of the Special Court may be attacked by a motion for clarification (*embargos de declaração*) and, exceptionally, by an extraordinary appeal to the Federal Supreme Court where a direct violation of the Constitution and general repercussion are shown. There is no appeal on the merits of the foreign decision.

At the enforcement stage the ordinary rules apply. A decision on the debtor's challenge may be appealed to the relevant Federal Regional Court, and from there special and extraordinary appeals remain available on questions of federal and constitutional law respectively.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

Yes. Interest awarded by the foreign judgment is recognised together with the principal, on the basis and at the rate determined by the foreign court, subject only to public policy control. Rates that are extraordinarily high by Brazilian standards may attract scrutiny and should be viewed as a matter of public policy, but a commercially normal contractual or statutory rate is not in itself objectionable.

From recognition onwards, Brazilian law governs the accrual of interest and monetary correction. Since the reform introduced by Law 14,905/2024, the default statutory rate under Article 406 of the Civil Code is the Selic rate less the official inflation index, with monetary correction calculated separately by reference to the IPCA index. An agreed contractual rate prevails within the statutory ceilings.

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20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

Yes. Recognition may be granted in respect of a sum expressed in foreign currency, but enforcement in Brazil is carried out in reais: Decree-Law 857/1969 and Article 318 of the Civil Code prohibit payment in foreign currency within the national territory, subject to limited exceptions for import and export transactions and obligations connected with foreign exchange contracts.

The creditor therefore presents a statement of account converting the sum into reais, and from the date of conversion the debt is updated by Brazilian monetary correction and interest. The relevant exchange rate is a recurring point of dispute. The position generally accepted is that conversion takes place at the rate in force on the date of effective payment or of the judicial deposit. Given the volatility of the real, the conversion date can be economically significant and is worth arguing carefully at the outset.

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

Partially. Brazil applies the loser-pays principle in Articles 82 to 85 of the Code of Civil Procedure: the unsuccessful party bears the court fees and expenses actually disbursed, including sworn translations and expert evidence, and pays lawyers' fees fixed by the court. Those fees are awarded to the winning party's lawyer rather than to the party.

The fee award therefore frequently falls short of the fees actually agreed with counsel, and the shortfall is not recoverable. In enforcement proceedings the additional 10% penalty and 10% fees imposed on a defaulting debtor mitigate the gap. Costs are awarded in recognition proceedings only where the application is contested.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

Yes. Third party funding is lawful in Brazil and has grown quickly in both court litigation and arbitration. There is no doctrine of maintenance or champerty and no statute regulating the activity. Funding agreements are governed by the general law of contract and are typically structured as assignments of credit or as atypical financing arrangements.

The constraints are professional rather than statutory. The funder must not interfere with the independence of counsel, and the rules of the Brazilian Bar Association on fee-sharing must be respected. In arbitration, disclosure of funding is required by the rules of the leading Brazilian institutions so that conflicts of interest can be tested. Legislative proposals to regulate the sector more comprehensively remain under discussion.

A funder who is not a party to the proceedings is not ordinarily liable for the opposing party's costs. Liability may arise where the funder has taken an assignment of the claim and become a party, or, exceptionally, where it is shown to have controlled the litigation abusively. Security for costs is not available against foreign claimants in the way it is in some common law jurisdictions.

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The first and most consequential would be Brazilian accession to the Hague Judgments Convention of 2019. Brazilian judicial cooperation policy has moved steadily towards multilateralism over the last decade (the Apostille Convention in 2016, the Evidence Convention in 2017 and the Service Convention in 2019) and the Judgments Convention is the natural next step. Accession would not remove the constitutional requirement of recognition, but it would harden the criteria, narrow the scope for public policy arguments and give Brazilian creditors a predictable route to enforcement abroad.

The second is technological. Recognition proceedings are already fully electronic, and the Superior Court of Justice has invested substantially in the automated processing of repetitive applications. As that capacity matures, disposal times for uncontested commercial applications should continue to fall.

The third is the expansion of asset-tracing tools. The integration of the systems for the electronic seizure of bank funds, vehicles and registered assets, together with the courts' willingness to order atypical enforcement measures under Article 139, IV, of the Code of Civil Procedure, is making the post-recognition stage considerably more effective. We also expect growth in the

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monetisation of recognised judgments through funding and assignment, and a gradual consolidation of the case law on punitive damages and on cross-border insolvency following Law 14,112/2020.

24. Has your country ratified the Hague Choice of Courts Convention 2005, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

Brazil has neither signed nor ratified the Hague Convention of 30 June 2005 on Choice of Court Agreements, and the Convention is therefore not in force for Brazil.

Adherence has been advocated for some years by scholars and by the international litigation bar, and the domestic ground is largely prepared. The Code of Civil Procedure of 2015 recognises the validity of agreements designating a foreign forum in international contracts, and Law 14,879/2024 has clarified the treatment of forum selection clauses more generally. Ratification would therefore align Brazilian law with a regime it already substantially reflects. No formal step towards accession has been completed, however, and we would not expect the Convention to be in force for Brazil in the short term.

25. Has your country ratified the Hague Judgments Convention 2019, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

Brazil has not signed or ratified the Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

We regard accession as likely in the medium term, though not imminent. The substantive conditions of the Convention are close to those already applied by the Superior Court of Justice, so the adjustment required would be modest, and the reciprocal benefit for Brazilian creditors enforcing abroad is significant. The accession of Uruguay, a Mercosur partner, adds a regional argument. The obstacles are practical rather than doctrinal. Treaty approval requires the National Congress to act, and instruments of private international law have rarely been a legislative priority.

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