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Finland

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 Finland.

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FINLAND

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?

The judgments in civil and commercial matters that fall within the scope of the Brussels I Regulation are directly enforceable in another Member State of the European Union ("EU"), without confirmation from the local district court.

In the EU, the recast Brussels I Regulation (Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) regulates the matter. The Brussels I Regulation is applicable to the enforcement of judgments which have been rendered in proceedings instituted on or after 10 January 2015. The Brussels I Regulation is applicable in every Member State of the European Union, except Denmark, and it has replaced the earlier Brussels I Regulation (No 44/2001).

The EU also has multiple regulations on specific matters. The European Union Regulation 805/2004 on European Enforcement Order for Uncontested Claims creates European Enforcement Order, and is applied to court settlements, authentic instruments, and enforcement of uncontested debt collection judgments in cross-border situations. EU Regulation 1896/2006 on creating a European Order for Payment Procedure (2012) applies to cross-border cases concerning judicial recovery of uncontested pecuniary claims. In addition, EU Regulation 861/2007 on establishing a European Small Claims Procedure (2015) can be applied to court procedure in European court in small claims, which do not exceed the limit of EUR 2,000. The regulation on the European Small Claims Procedure was amended by (EU) No 2015/2421, which entered into force on 14 July 2017, which raised the maximum value of claims to EUR 5,000. EU law has

primacy of application in matters between EU Member States. If there are applicable international treaties, those are also applied prior to domestic law.

The Hague Convention on Choice of Court Agreements (2005) applies to all EU Members States, and it includes exclusively only matters on choice of court agreements, provided that the parties have made an exclusive choice of court agreement. The Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the Lugano Convention 2007) and its predecessor the Lugano Convention of 1988 are applied concerning Norway, Iceland, Denmark and Switzerland.

The Nordic Convention on the Recognition and Enforcement of Judgments in Civil Matters (1977) is in force between the Nordic countries. However, the Nordic Convention is usually not applied as the Brussels I Regulation and the Lugano Convention have priority over the Nordic Convention. The New York Convention of 1958, or the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, has the provisions governing the enforcement of foreign arbitral awards.

The Finnish, national legislation has applied the provisions from the Convention in the Arbitration Act (957/1992). Furthermore, the Act on International Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters (426/2015) plays a role in various elements of enforcement. In addition to the abovementioned, Finland does have international treaties, which are often bilateral governing for example family on law matters.

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

Finland has made no reservations to the international treaties or EU regulations in this matter. The EU

regulations are binding when they enter into force and are immediately enforceable in the Member States.

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?

Finland does not, as a rule, recognise or enforce civil judgments issued in a foreign jurisdiction, if there is no international treaty binding on Finland, or national or EU legislation. If the judgment is not recognised, the Finnish court will make a new judgment, and the foreign judgment will have probative value. In other words, Finnish courts can use the foreign judgement as evidence in building for own case respectively.

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?

International treaties and conventions Finland has acceded to, as well as EU regulations, contain a presumption of enforceability of a judgment given in the state of origin. A judgment given in another EU Member State can be recognised as such without further procedures. The judgment must be enforced in the same way a judgment of a Finnish court would be enforced.

In order for the judgment to be enforceable, it should not meet any of the grounds for refusal. For example, Finnish law does not permit punitive damages, and the judgment awarding such would likely not be enforceable. The Brussels I Regulation and the Hague Choice of Court Convention provide that the defendant must be given an opportunity to respond, and judgments where that has not been given, are generally unenforceable. According to the European Court of Justice, decisions on anti-suit injunctions are not enforceable in EU Member States.

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

If the international convention has no provisions on the procedure for enforcement, according to the Finnish Act on Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters, an application on the enforcement of judgment must be

submitted to the district court. The district court chosen is the competent district court, or the district court chosen according to the domicile of the party against whom enforcement is sought.

The decision of the district court may be appealed to the Court of Appeal, which may then appeal to the Supreme Court. For example, the application is needed when applying the Lugano Convention concerning judgments from Norway, Iceland, Denmark, and Switzerland. If the judgment is from another EU country, the judgment is as such enforceable under the Brussels I Regulation. In principle, this allows the application for enforcement of judgment to be made directly to the Finnish enforcement authorities. In practice, the applicant must provide the enforcement authority with a certified copy of the foreign judgment, and a certificate from the court of origin that confirms that the judgment is enforceable and contains an extract of the judgment. Information on the judgment, legal fees and interest must be mentioned in the certificate. It is worth noting that in a situation where a debtor has not previously been served with the enforceable judgement, it will be attached with a certificate of origin and enforcement can only begin after a reasonable time has passed from the service of the aforementioned documentation.

Under national legislation, judgments will need to be enforceable according to international treaty binding on Finland, or national or EU legislation. An enforceable judgment given in another Member State is enforced in Finland under the same conditions as a final judgment given in Finland. For example, according to the Finnish Enforcement Code (705/2007), to commence an enforcement procedure requires the submission of an application and the grounds for enforcement.

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

As stated previously, Finland does not, as a rule, recognise or enforce civil judgments issued in a foreign country, if there is no international treaty binding on Finland, or national or EU legislation. For this reason, national law is applicable only to the extent that is not covered by such instruments. The national law in question is the Act on International Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters. Chapter 8 of the Act contains the relevant provisions that outline the procedure and follows the provisions set out in Chapter 8 of the Code of Judicial Procedure. Under general law in the Act, an application to declare a judgment issued in a foreign state enforceable shall be submitted to a district court.

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?

According to Article 42 of the Brussels I Regulation, for the purposes of enforcement in a Member State of a judgment given in another Member State, the applicant shall provide the competent enforcement authority with: (a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and (b) the certificate issued pursuant to Article 53, certifying that the judgment is enforceable and containing an extract of the judgment as well as, where appropriate, relevant information on the recoverable costs of the proceedings and the calculation of interest. The judgment from another EU Member State is then recognised and enforced as such.

The Hague Choice of Court Convention contains a framework for the recognition and enforcement of judgments by the courts of a contracting state. According to Article 14 of the Hague Choice of Court Convention, the party seeking recognition or applying for enforcement shall produce a) a complete and certified copy of the judgment, b) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence, c) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party, d) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin, e) in the case of judicial settlement (transactions judiciaries), a certificate of a court of the State of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin.

If the international treaty applicable does not have provisions on the recognition or enforcement of judgments, an application to the district court for a declaration of enforceability must be submitted according to the Finnish Act on Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters.

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

The time period for the enforcement of a foreign

judgment is generally around five months. This is affected by whether the opposing party responds to the respective filing. In theory, the authorities will initiate the process within days of receiving all the necessary documentation. It is worth noting that the enforcement of foreign judgements follows the Enforcement Code. As a result, Chapter 3 Section 21 is applicable and therefore proceedings shall commence without “undue delay”.

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?

Injunctions are not a method that is used in Finland when it comes to the final enforcement of a foreign judgment.

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

The limitation period depends on the type of case presented to the courts. Finland has no specific limitation period for foreign judgments.

According to Section 13 of the Finnish Act on Statutes of Limitations of Receivables (2003/728), the limitation period is five years from the date of the final judgment or other enforcement order on the debt, which can be enforced in the same way as a final judgment. According to Chapter 2, Section 24a of the Finnish Enforcement Code (2007/705), a ground for enforcement referred to in the Code, imposing a payment liability on a natural person, remains enforceable until the expiry of a time limit of 15 years (the time limit on grounds for enforcement).

The time limit is 20 years if the creditor referred to in the ground for enforcement is a natural person or if the payment liability relates to damages arising from a criminal offence for which the debtor has been sentenced to imprisonment or community service. If the debtor shows that before the issue of the ground for enforcement, the debt had been transferred to a natural person by someone other than a natural person, the time limit is 15 years. In certain cases, the limitation period can be extended by a judgment from the court. In conclusion, judgments concerned with individuals have a limitation period of 15-20 years while the limitation period concerning receivables is limited to 5 years by statute.

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

According to the Finnish Act on International Legal Assistance and Recognition and Enforcement of Judgments in Civil and Commercial Matters (426/2015), an appeal against a decision declaring a foreign judgment enforceable may be lodged in accordance with the rules on appeals against judgments of the courts concerned. Under Article 36 of the Brussels I Regulation, any interested party may apply for a decision for the refusal of recognition. In addition, a party has the right to contest applications for enforcement and recognition.

Recent case law in Finland focuses on the enforcement in situations where the foreign judgement is itself no longer enforceable as a result of expired debts. For example, in decision number 942 dated 16.06.2023, the Helsinki Court of Appeal revoked a decision by the district court based on the grounds for revocation as set out in the Brussels 1 regulation. The appeal was revoked with reference to Article 45 of Brussels 1, whereby an appeal regarding revocation can only be based on grounds specified in Articles 34 and 35. Furthermore, the Court of Appeal assessed that a failure of enforceability in a foreign jurisdiction equates to a failure of enforceability domestically, on the basis of Article 38.

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

As a general rule, during the enforcement state, a judge will not review the merits.

Article 45 of the Brussels I Regulation suggests that the merits of a foreign judgment are reviewed in terms of whether they are aligned with public policy and earlier domestic judgments. The judgment does not undergo a change per se as it is not a reconsideration of the judgment but rather a consideration of its viability with regard to domestic merits imposed by the authorities.

However, according to the Brussels I Regulation, if the judgment contains a measure or order which is not known in the law of the Member State addressed, that measure or order, including any right indicated therein, should, to the extent possible, be adapted to one which, under the law of that Member State, has equivalent effects attached to it and pursues similar aims. In addition, according to a decision of the European Court of Justice, anti-suit injunctions are not recognised or enforced in the European Union Member States. According to Article 11 of the Hague Choice of Court

Convention, enforcement or recognition of a judgment can be refused if the judgment awards damages including exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered.

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?

Under certain conditions of the applicable conventions, in specific disputes the enforcing court can examine whether the foreign court had jurisdiction. For example, under Article 17 of the Hague Judgments Convention 2019, courts can reject the jurisdiction of foreign judgements if the parties were residents in Finland, and the relationship of the parties and other elements of the dispute were exclusively connected to Finland.

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?

According to Article 45 of the Brussels I Regulation, a judgment of a foreign court may be refused where the judgment was given in default of appearance. In other words, if the defendant did not receive service or adequate documentation in sufficient time and in such a way as to enable an arrangement of defence. According to Article 8 of the Hague Choice of Court Convention, the court addressed is not bound by the court of origins' findings, if the judgment is given by default. However, according to the Brussels I Regulation and the Hague Choice of Court Convention, if the judgment is given by default, the party will need to provide evidence as a document that establishes that the document which instituted the proceedings was notified to the defaulting party.

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

According to Article 39 of the Brussels I Regulation, a judgment given in an EU Member State shall be enforceable in the other Member States without any declaration of enforceability being required. Furthermore, situations where a refusal of enforcement arise are legislated by Article 45 of the Brussels I Regulation. As the subject matter is extensively

legislated, it leaves a limited amount of discretion to the courts. [1] The jurisdiction of the court of origin may not be reviewed, and the public policy test cannot be applied to jurisdiction rules.

According to the Article 8 of the Hague Choice of Court Convention, the court addressed shall be bound by the findings of fact on which the court of origin based its jurisdiction, unless the judgment was given by default. However, according to Article 9 of the Hague Choice of Court Convention, recognition or enforcement may be refused if the judgment is inconsistent with a judgment given in the requested State in a dispute between the same parties, or if the judgment is inconsistent with an earlier judgment given in another State between the same parties on the same cause of action, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State. Similar provisions can be found in the Brussels I Regulation. Under Article 34 of the Regulation, refusal is based on public policy grounds, defaults on appearance and irreconcilable judgements between the same parties. Article 35 of the regulation iterates the fact that the merits of the foreign judgement are not reconsidered in the context of refusal.

[1] Merilampi 2014: Bryssel I asetuksen uudistus helpottaa kansainvälisten tuomioiden täytäntöönpanoa. <https://www.merilampi.com/bryssel-i-asetuksen-uudistus-helpottaa-kansainvalistentuomiodentaytantoonpanoa/?lang=fi>. Read 25.7.2022.

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?

In general, all foreign judgements are enforceable if these can be enforced in the country of origin.

However, according to the European Court of Justice, decisions on anti-suit injunctions are not enforced or recognised in the EU. Further, if the judgment is contrary the Member State's public policy (ordre public), recognition can be refused. According to Article 11 of the Hague Choice of Court Convention, enforcement or recognition may be refused, if the judgment awards damages, including exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered.

17. Can enforcement procedures be started

in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

The judgment will need to be enforceable in the country of origin in order to be enforceable on another country, and if an appeal proceeding is ongoing, the enforcement procedures of a foreign judgment may be suspended.

According to Article 8 of the Hague Choice of Court Convention, recognition or enforcement may be postponed or refused if the judgment is the subject of review in the country of origin or if the time limit for seeking ordinary review has not expired. A refusal does not prevent a subsequent application for the recognition or enforcement of the judgment.

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

The district court's decision to recognise or enforce a foreign judgment can be appealed to the Court of Appeal only if the court has granted a leave for continued consideration. The Court of Appeal decisions can be appealed to the Supreme Court if granted leave to do so. In addition, the decisions of execution authorities can be appealed to the competent district court.

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

The certificate to be issued under Article 53 of the Brussels I Regulation certifies the enforceability of a judgment and with it contains information in regard to the recoverable costs of the proceedings and the calculation of interest. Therefore, costs and interest are likely to be receivable with similar methodology in domestic judgments since the foreign judgment and the ramifications thereof are held as applicable as a result of the certificate. The matter depends on the foreign judgment.

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

There is no legislation requiring foreign judgments to be converted into local currency for the purposes of enforcement.

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?

Due to the fact that costs are recoverable from the judgment debtor in cases presented to the Finnish courts, it is therefore likely the costs of enforcement can be recovered as part of the wider costs associated with legal proceedings. In terms of the costs of the enforcement and recognition proceedings themselves, the court fee is around EUR 250 to EUR 500. If the applications are contested, then the costs will also rise.

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?

Third parties can only be involved in terms of cost in cases where receivables have been transferred to a third party in a demonstrated manner. The judgment debtor in the case is the party whom against the judgment can be enforced.

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

The legal system in Finland is not immune to the developments in other jurisdictions. As an EU Member State, a key development to focus on is the enforcement relationship between the EU and the United Kingdom post-Brexit. The significance of the enforcement relationship derives from the fact that the United Kingdom is a popular location for international disputes while also being an influential trading partner of the European Union. In this context, the extent to which

judgments arising in the United Kingdom will have an effect on Finnish judicial practices is of importance. The potential of the Hague Judgments Convention (2019) as a mechanism is worth noting, since the United Kingdom has indicated its willingness to join.

To that end, it is likely that the manner and speed with which the United Kingdom joins the convention, and the potential momentum this will create in spurring other countries towards ratifying the Hague Judgments Convention will likely cause the most significant shift in the next 5 years. From Finland's point of view, the Convention could be useful, as the mechanism for the recognition of foreign judgment is based on the international treaties and EU regulation, and it would thus be extended. However, the importance of the new Hague Judgments Convention depends on the number of States that accede to it.

24. Has your country ratified the Hague Choice of Courts Convention 2005? If not, do you expect it to in the foreseeable future?

The European Union is a member of the Hague Choice of Courts Convention 2005, and with that Finland has also adopted the Hague Choice of Courts Convention.

25. Has your country ratified the Hague Judgments Convention 2019? If not, do you expect it to in the foreseeable future?

On 16 July 2021, the European Council adopted a proposal for a Council Decision on the accession of the European Union to the Hague Judgments Convention 2019.

The European Union ratified to the Hague Judgements Convention on 29.08.2022 with Ukraine, and it will enter into force 01.09.2023. A point of interest is Article 29 of the Convention, which allows for bilateral agreements regarding the enforcement of judgement.

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