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## Litigation & Arbitration

A guide to enforcing foreign court judgments across various jurisdictions

Along with the ex officio duties of the court, a court of North Macedonia shall refuse to recognize a foreign judicial decision when a party submits an objection and proves that:

- 1 due to irregularities in the procedure, the party was not able to present its means of defense or
- 2 the summons, lawsuit or the decision for initiation of the procedure were not delivered to the parties personally, or in case there was no attempt for personal delivery at all, unless the party has got involved in the court discussion concerning the main matter in the first-instance proceedings in any way or
- 3 the party was not given enough time to prepare the defense from the moment of delivery of the lawsuit until the hearing is scheduled.

Furthermore, in respect of enforcement of the decisions of the European Court of Human Rights in the Republic of North Macedonia, the procedure for enforcement of the decisions of the European Court of Human Rights is regulated with the Law on Enforcement of the Decisions of the European Court of Human Rights, adopted upon the cases against the Republic of Macedonia, as well as other issues concerning the enforcement of the decisions of the European Court of Human Rights.

When it comes to arbitral awards, it is important to point out that the rules which regulate the procedure for the recognition of foreign judicial decisions under the PILA are in correlation with the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.



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# Malta

## Overview of the procedure

In Malta, the procedure applicable to the enforcement of foreign judgements varies depending on whether the State of origin is a member of the European Union (“EU”) or not. To be enforceable, non-EU judgments must follow the procedure laid down by the Maltese Code of Organization and Civil Procedure (Chapter 12 of the laws of Malta). The enforcement of EU judgments is subject to the procedures set forth in EU Regulation No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“**Brussels I bis**”).

In either case, an application with the First Hall of the Civil Court in Malta must be filed. The application must be accompanied by certain documents, which vary according to the EU/non-EU nature of the judgment.

## Formal Requirements

### Enforcement of non-EU judgements

#### Non-EU judgments may be enforced in Malta provided:

- A they have been delivered by a court of competent jurisdiction; and
- B the foreign judgment is final, i.e., not liable to an appeal.

#### Non-EU judgements will not be enforceable in Malta where they:

- 1 may be set aside on the basis of re-trial;
- 2 were entered in default of the defendant, and the parties were not contumacious according to the laws of the State of origin.
- 3 are against public policy or the internal public laws of Malta.

#### Applications for the recognition of non-EU judgments must be accompanied by the following documents:

- I a certified copy of the original judgement;
- II a certified translation of the original judgement into Maltese or English, and
- III a certificate confirming that there is no appeal pending against the foreign judgment.

### Enforcement EU judgements

Pursuant to Brussels I bis, EU judgements cannot be provisional, including protective measures, if entered by the foreign court without the defendant having been summoned to appear. However, this does not apply if the judgement has been served on the defendant prior to the request for enforcement.

Also, EU judgments entered on the following matters are excluded from the scope of Brussels I bis and may not therefore be enforced pursuant to its provisions:

- the status or legal capacity of natural persons
- rights in property arising from a matrimonial relationship or any similar arrangement.
- bankruptcy or the winding up of companies
- social security
- arbitration
- maintenance obligations and
- wills and succession

From the above it follows that a major difference between the enforcement of non-EU and EU judgements is that the former must be final. Conversely, Brussels I bis allows enforcement of non-final judgements except where the defendant was not summoned to appear (see i) above). However, the enforcement proceedings in Malta may be suspended where the enforceability of the judgement is suspended in the Member State of origin.

Applications for enforcement of EU judgments must be accompanied by the following documents:

- I a certified copy of the original judgement;
- II a certified translation of the original judgement into Maltese or English, and
- III a certificate issued by the State of origin containing
  - A certification that the judgement is enforceable.

- An extract of the judgement
- Information as to the recoverable costs of the proceedings and the calculation of interest

### Competent Court

The Maltese Courts have jurisdiction to hear and decide on cases of enforcement and recognition of foreign judgements in Malta where there exists a link between the foreign judgement and Malta, for example the debtor is a company registered in Malta. However, one must take note of the particular jurisdiction applicable with respect to particular matters, as set out by the Brussels I Bis. These are particularly applicable in matters relating to insurance, consumer contracts, individual contracts of employment. Furthermore, the Brussels I Bis establishes exclusive jurisdiction for judgements which have a particular object. In these cases, one must follow the rules established by the Brussels I Bis to determine whether the Maltese Courts would have jurisdiction or not.

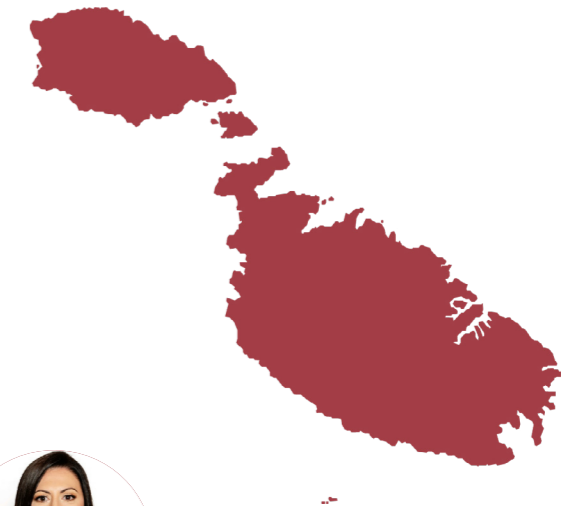


### Enforcement of British judgements

The Maltese Courts have jurisdiction to hear and decide on cases of enforcement and recognition of foreign judgements in Malta where there exists a link between the foreign judgement and Malta, for example the debtor is a company registered in Malta. However, one must take note of the particular jurisdiction applicable with respect to particular matters, as set out by the Brussels I Bis. These are particularly applicable in matters relating to insurance, consumer contracts, individual contracts of employment. Furthermore, the Brussels I Bis establishes exclusive jurisdiction for judgements which have a particular object. In these cases, one must follow the rules established by the Brussels I Bis to determine whether the Maltese Courts would have jurisdiction or not.

### Costs estimate

The court fees to file an application in the First Hall of the Civil Court in Malta, to have a judgement recognized and enforced, usually do not exceed EUR 200. However, this amount varies on a case-by-case basis, and does not include the legal fees.



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