

Dispute Resolution

Enforcement of Non-EU Judgements in Ireland

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Nowhere to run: enforcing Non-EU Judgments in Ireland

The process of having a non-EU judgment recognised and enforced in Ireland is, at present, cumbersome and time consuming, requiring a number of conditions to be met.

But, in circumstances where a Defendant no longer has any assets in the jurisdiction where judgment was obtained, foreign creditors are willing to spend the time in following the process as they recognise that such an application is their only opportunity to convert their paper judgment obtained abroad into cash.

While the European Union has introduced a set of rules in relation to the recognition and enforcement of judgments between member states, there are no such conventions in relation to the recognition and enforcement of judgments obtained outside the EU. In order to have such a judgment recognised, an application must be made to the High Court seeking an Irish Judgment against the Defendant in the terms of the foreign judgment.

When the judgment issues, it has the same power and effect as any judgment of the High Court, with all its inherent consequences.

The Criteria

In deciding whether to recognise a foreign judgment, the following criteria must be present:

- 1 The judgment must be for a sum of money. Therefore, orders such as injunctions are not recognisable.
- 2 The judgment must be final and conclusive. A judgment which is under appeal can be recognised and enforced, provided that no stay on the execution was placed on the judgment pending the appeal.
- 3 The judgment must have been handed down by a court of competent jurisdiction. This is the most difficult hurdle to overcome in a recognition application. Irish courts will not automatically assume that the foreign court had jurisdiction to hear the case and to hand down judgment. Past case law has shown that the Irish Courts will determine that the court is one of competent jurisdiction if one of the following criteria are met:
 - a. The Defendant was resident or present in the foreign jurisdiction at the time that the proceedings were served. Proof of a physical presence or office in the jurisdiction is sufficient, even where the proceedings were ignored by the Defendant. Or:
 - b. The Defendant submitted to the jurisdiction of the court by either participating in the proceedings (i.e. defending the proceedings) or agreed in some way that the court had jurisdiction.

Provided the criteria are met, the High Court has no option but to recognise the judgment. Recognition can only be refused in limited circumstances.

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