



INTERNATIONAL DISPUTE RESOLUTION SPECIALTY GROUP

QUESTIONNAIRE

The aim of this questionnaire is to provide a framework for each country representative to describe the process, procedure and any other relevant issues, involved in enforcing a foreign judgment in that country. The questionnaire deals with both enforcement of judgments and arbitral awards.

In the event that there are further issues not covered by the questions below that should be considered by a party attempting to enforce a foreign judgment in a particular country, please include an appropriate question and answer, which deals with this issue.

POLAND

PART I: ENFORCEMENT OF FOREIGN JUDGMENT

Enforcement

1. What procedures exist for recognition and enforcement of foreign judgments pursuant to conventions?

Poland is party to the Lugano Convention.

2. What procedures exist for recognition and enforcement of foreign judgments pursuant to statute or common law?

The Civil Proceedings Code allows for foreign judgements to be enforced by Polish courts on the basis of reciprocity.

3. Are there any practical problems or special time factors that a party seeking to enforce a foreign judgment should bear in mind?

Polish courts do not operate quickly and in the case of a foreign judgement will operate even less quickly as they consider foreign procedural laws and work through translated documents.

4. Are there any public policy or other issues which may affect enforceability?

No political issues but laws and verdicts which are contrary to the basis legal framework of Poland will not be enforced. Foreign judgements which Polish courts believe should have been judged in Poland will not be enforced. Judgements in cases in which a defence could not be brought will not be enforced.

Limitation Issues

5. What are the time limits for bringing civil claims?

No limits.

Confidentiality

6. Are court proceedings confidential or public?

Court records will be public.

Starting proceedings

7. How are civil proceedings commenced?

An application to enforce the verdict must be made, along with a translation of the verdict.

Interim remedies

8. What interim remedies are available?

None for these proceedings.

Inter partes costs

9. Does the court have power to order costs or to order security for costs?

Some limited costs can be ordered on general terms – against the defendant but these will not cover legal fees in most cases. Security cannot be ordered.

Jurisdiction

10. If a contract has some connection with your jurisdiction, are there mandatory laws under the local law that would apply to the contract irrespective of the parties choice of law in the contract?

There are mandatory laws that apply to the contract, especially in employment cases where Polish jurisdiction will almost certainly apply as well as in general cases dealing with obligations (supply, delivery). There are some presumptions that Polish law and jurisdiction will apply to contracts, but mostly parties are free to choose law and jurisdiction. This is a complicated issue.

PART II: ENFORCEMENT OF ARBITRAL AWARDS

Enforcement

11. What procedures exist for enforcement of foreign awards?

Foreign awards may be enforced under the Polish Civil Proceedings Code as well as the Geneva and New York Convention. Arbitral awards are treated similarly to court verdicts and must be confirmed in proceedings in Poland before they can be executed. They are enforceable and in most cases will be enforced.

Conventions

12. Is your country party to the New York Convention, Washington Convention and/or Geneva Convention?

See above.

UNCITRAL Model Law

13. Is the arbitration law based on the UNCITRAL Model Law?

No.

Arbitrability

14. Are there arbitration awards which will not be enforced due to the subject matter of the dispute?

Awards that cannot be decided in arbitration in Poland (i.e. divorce) or are contrary to the basic principles of Polish law, will not be enforced.

SPECIFIC FEATURES

15. Are there any specific features of the dispute resolution system not addressed in any of the previous questions?

Bilateral agreements and changes in European Union dispute resolution law (especially regarding recognition of awards) will affect disputes.

In major politically tinged matters, i.e. the Eureka/Elektrim dispute, political issues will affect proceedings and the government will try to avoid unfavourable verdicts. This does not mean the independent minded judiciary will be affected by pressure, however enforceability may be problematic.