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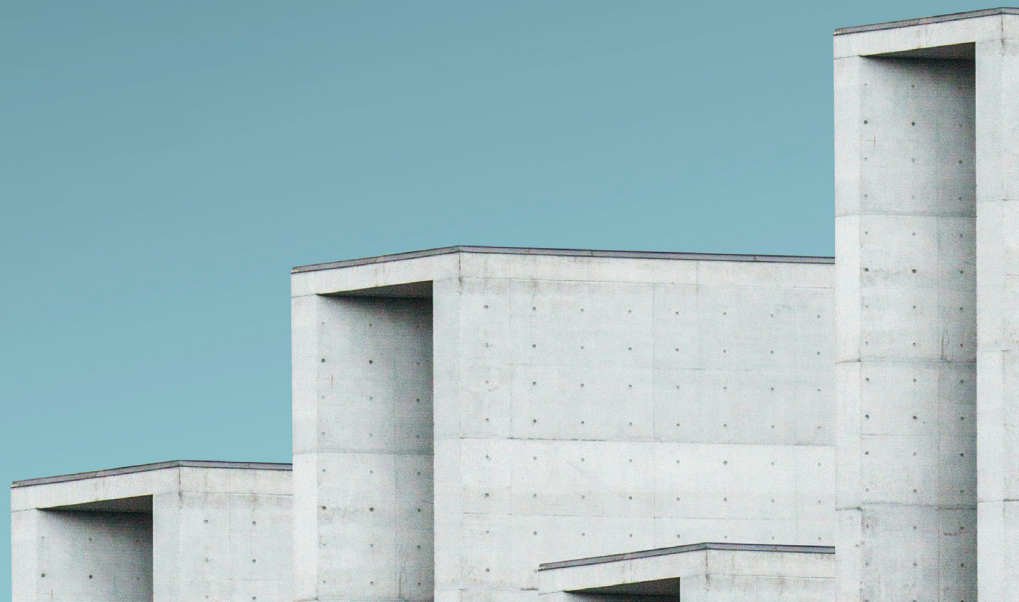
Enforcement of Judgments 2026

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Luxembourg: Law and Practice

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Elvinger Hoss Prussen



LUXEMBOURG

Law and Practice

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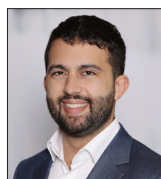
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1. Identifying Assets in the Jurisdiction

1.1 Options to Identify Another Party's Asset Position

A creditor has several means for identifying or locating a debtor's assets in Luxembourg.

The available options depend on the nature of the assets concerned and the type of enforceable title held by the creditor. Where appropriate, the assistance of a private investigator may also be useful in locating assets that are not recorded in public registers.

Land Ownership and Real Estate

The Luxembourg Land Registry & Topography Administration (*Administration du cadastre et de la topographie* – ACT) is an official government agency and maintains records relating to real estate located in the country. It records every plot of land in the Grand Duchy, identifies property ownership, and holds ownership information for real estate. Research can be made by plot or by owner name, although, when researching by owner name, not all real estate is provided – mainly mortgaged properties.

Corporate Assets

The Luxembourg Trade and Companies Register (*Registre du Commerce et des Sociétés*, or RCS) is the key source for identifying a debtor's corporate assets in Luxembourg companies. It contains information on registered companies, including their management, constitutional documents, annual accounts and certain insolvency-related information. Significantly, the RCS provides details on share ownership for some types of companies, such as private limited liability companies (*sociétés à responsabilité limitée*) and, to a lesser extent, limited partnerships with shares (*sociétés en commandite*).

Insolvency Information

Information concerning insolvency proceedings may be available through court publications, the RCS and insolvency-related registers.

Intellectual Property Registers

Regarding intellectual property and the identity of a product or service, Luxembourg does not have a standalone national trademark protection scheme.

As such, all trademark filings will be registered in the three Benelux countries (Belgium, the Netherlands and Luxembourg) and can be verified on the [BOIP](#) (Benelux Office for Intellectual Property) website.

Patents are handled by the Intellectual Property Office (*Office de la Propriété Intellectuelle* – OPI) within the Ministry of the Economy, and are maintained via the Benelux Patent Platform (BPP). Aside from national filing, Luxembourg is part of the European Patent Office (EPO) system and participates in the European Unitary Patent.

Bank Accounts

Unless acting on a court order, banks will not disclose to a creditor whether they hold an account (or safe deposit box) belonging to a debtor, or any amounts or assets held for the debtor's account.

Therefore, when attaching bank accounts in Luxembourg, the creditor will know whether the attachment was successful at the end of adversarial court proceedings having validated the attachment. Banks would breach their professional secrecy obligation if they were to disclose confidential information regarding their clients to third parties, such as their clients' creditors.

An easier way for creditors to “lift” bank secrecy and identify the bank or banks in which a debtor may hold assets is to obtain an *ordonnance européenne de saisie conservatoire des comptes bancaires*, or European Account Preservation Order (EAPO) for debt recovery, pursuant to Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters.

When applying for an account preservation order, the creditor may request the disclosure of a list of the accounts held by the debtor in the target jurisdiction. In Luxembourg, the CSSF would then compile information relating to the debtor including the banks in which accounts are held in the debtor's name and the balances of those accounts.

2. Domestic Judgments

2.1 Types of Domestic Judgments

Luxembourg law classifies domestic judgments according to several criteria, including their procedural nature, the involvement of the parties, their subject matter and their enforceability.

Luxembourg is a civil law jurisdiction that provides for a traditional three-tier court system, consisting of proceedings at first instance, on appeal and before the Court of Cassation. Parties generally have the right to appeal judicial decisions except in certain cases, such as those involving very small claims. A judgment acquires the authority of *res judicata*, and becomes final after all rights of appeal have been exhausted or the applicable time limit for lodging an appeal has expired.

Where a party fails to appear during the proceedings, the court may render a default judgment or a judgment deemed adversarial.

Judgment Deemed Adversarial

Where the absent party was personally served with notice to appear or with a summons, the court renders a judgment deemed to be adversarial (*jugement réputé contradictoire*). Although absent from the proceedings, the defendant remains bound by the court's ruling and any order rendered by the court.

Default Judgment

Where, however, the claimant is unable to locate the defendant personally to serve notice to appear or a summons, the court may render a default judgment (*jugement par défaut*) if the service has been made properly by other means.

A defendant against whom a default judgment has been rendered may generally file an opposition (instead of appealing to a higher court), enabling the same court to re-examine the case. Unless otherwise provided by law, the opposition suspends enforcement of the default judgment. It also gives the defendant an opportunity to explain to the judge the reasons for the failure to appear and to present the defence's arguments. Unlike an appeal, an opposition returns

the case to the court that rendered the judgment for a fresh decision.

Judgments on the Merits and Procedural Judgments

Judgments on the merits (*jugements au fond*) determine all or part of the parties' substantive merits of claims and counterclaims.

Procedural judgments (*jugements sur exception ou incidents de procédure*) address procedural issues, such as jurisdiction admissibility, limitation periods or other procedural objections, without examining the substantive merits of the claim.

Interim and Provisional Judgments

Interim judgments are rendered during proceedings on the merits to: (i) manage the conduct of the proceedings; (ii) order investigative measures; (iii) appoint experts; or (iv) preserve evidence. These judgments may be rendered by the court or by the case-managing judge (*juge de la mise en état*).

Summary Orders

Summary proceedings (*référés*) brought before the judge sitting in summary matters (*juge des référés*) may order provisional measures or grant provisional relief where urgency exists or where immediate protective measures are required, including:

- to prevent imminent harm;
- to preserve a factual or legal situation;
- to grant interim payments; and
- to protect evidence.

Enforceable and Non-Enforceable Judgments

Perhaps the most important distinction must be made between judgments that are immediately enforceable and those that cannot.

As a general rule, a Luxembourg judgment becomes enforceable in Luxembourg once:

- it has acquired the authority of *res judicata* (*force de chose jugée*);
- the applicable time limit for appeal has expired (or appeals have been determined); and

- the judgment has been formally served on the debtor by a bailiff (*huissier de justice*).

However, some judgments are provisionally enforceable (*exécutoires par provision*), meaning that they may be enforced immediately, notwithstanding the possibility of appeal.

Under Luxembourg law, provisional enforcement may apply:

- where the court expressly orders it; or
- where specific statutory provisions provide for immediate enforcement.

Where provisional enforcement has been ordered, an appeal does not automatically suspend enforcement.

Enforceable Titles

Although not strictly a category of judgments, domestic judgments form part of the category of enforceable titles which permit compulsory enforcement through a bailiff. They include:

- final court judgments;
- judgments declared provisionally enforceable;
- payment orders that have become enforceable;
- judicial settlements;
- enforceable notarial deeds; and
- certain foreign judgments and arbitral awards that have been recognised or declared enforceable in Luxembourg (noting, however, that foreign judgments and arbitral awards provide a legal basis for attachment proceedings even before their recognition (*exequatur*) is requested in the country).

For the purposes of simplicity, the concept of “enforceable judgment” set out hereafter will refer to enforceable judgments resulting from judicial proceedings.

Appeal

An appeal involves bringing a case before a higher court, where different judges reconsider the case. In principle, there is a 40-day deadline for lodging an appeal. According to Article 588 of the New Code of Civil Procedure (*Nouveau Code de Procédure Civile* – NCPC), an appeal will have suspensive effect if the

judgment does not order provisional enforcement in cases where such enforcement is permitted.

In some cases, the provisional enforcement can also be ordered during the appeal proceedings, before a decision on the merits is rendered.

2.2 Enforcement of Domestic Judgments

Final domestic judgments or other enforceable titles may be applied in Luxembourg if the debtor, having been served with the judgment or other enforceable title, has failed to comply voluntarily with the obligations imposed therein.

Enforcement proceedings are governed primarily by the New Code of Civil Procedure and are carried out by a bailiff, who has the exclusive statutory authority to enforce judgments.

Role of the Bailiff

As stated, bailiffs have the exclusive statutory authority to enforce court decisions or orders. In particular, they are empowered to take all coercive measures provided for by law to enable creditors to recover sums owed or to render the debtor’s property unavailable.

To commence the enforcement process, the creditor must provide the bailiff with the enforceable title.

Enforcement may take various forms including, *inter alia*, the attachment of bank accounts, seizure of movable goods/assets, and eviction from residential premises.

Main Enforcement Measures

Attachment of bank accounts (saisie-arrêt)

One of the most frequently used enforcement mechanisms is the attachment of bank accounts or funds held by a third party – most commonly a bank – on behalf of the debtor. The principal difficulty is that the creditor may not know which bank holds the debtor’s assets, making it difficult to identify the appropriate third party in the hands of which the attachment is made.

The attachment freezes the debtor's account in full, and may ultimately result in payment to the creditor following validation of the attachment.

If the attachment is successful, the debtor may nevertheless seize the court to request that it withdraw its attachment, by way of a *référé-rétractation*, or limit the attachment up to the amount claimed by the creditor, if the amount attached is higher, by way of a request for *cantonnement*.

Attachments of incomes

Creditors may seek attachment of recurring income owed to the debtor, including:

- wages and salaries;
- certain pensions;
- unemployed benefits; and
- other attachable income streams.

Specific statutory protections and attachment thresholds apply.

Seizure and sale of movable property

The bailiff may seize movable assets belonging to the debtor, including:

- movable property;
- vehicles;
- receivables;
- securities and shareholders' rights;
- assets held in safe deposit boxes;
- shares in certain types of companies (eg, public limited liability companies, or *sociétés anonymes*); and
- economic rights attached to shares in certain types of companies (eg, private limited liability companies, or *sociétés à responsabilité limitée*).

Depending on their nature, the attached assets, may subsequently be sold by public auction, with the proceeds distributed among the creditors in accordance with the applicable rules of priority.

Seizure of immovable property (*saisie immobilière*)

Real estate seizure is a formal judicial procedure culminating in the sale of the property under court supervision.

Recovery of specific property

Where a judgment orders the return of specific movable property, Luxembourg law provides procedures allowing the creditor to recover possession from the debtor or a third party holding the property.

Eviction and removal orders

Judgments ordering the vacation of premises may be enforced through eviction proceedings. The bailiff may take the necessary measures to remove occupants and restore possession of the property to the successful party.

Enforcement of Obligations to Act or Refrain from Acting

Where a judgment requires a party to perform or cease a specific act, Luxembourg courts may support enforcement through the imposition of a financial penalty payment (*astreinte*) that accrues until the debtor complies with the judgment or order.

Protective and Conservatory Measures

In addition to enforcement measures, Luxembourg law provides for several mechanisms designed to preserve assets pending final enforcement.

Judicial security interests

Creditors may obtain security over certain assets, including:

- mortgages over real property;
- pledges over business assets; and
- pledges over shares, securities or financial instruments.

These measures do not themselves result in payment, but secure the creditor's position and may grant priority upon subsequent realisation of the asset.

To enforce the security, an enforcement proceeding must be initiated separately at the creditor's initiative.

Conservatory attachments (*saisies conservatoires*)

Conservatory attachments are provisional measures intended to restrict access to the assets or funds belonging to the debtor until an enforceable judgment is obtained.

Exclusively carried out by a bailiff, these preliminary measures are numerous and applicable to assets (listed above) that may be in the debtor's possession (see above).

Once an enforceable title is obtained, these conservatory measures may be converted into enforcement measures.

If the debtor or any other person present displays physical resistance during the execution of an enforcement action, the police may employ coercive measures against them.

2.3 Costs and Time Taken to Enforce Domestic Judgments

Time

The length of the proceedings to enforce domestic judgments will depend on multiple factors, including: (i) the nature of the assets concerned; (ii) the complexity of the enforcement process; (iii) the debtor's procedural approach; and (iv) the existence of competing creditors.

Costs

The main expenses relating to enforcement proceedings are bailiff costs. If a notary has to intervene (if the enforcement is made on real estate), these fees will also be borne by the debtor.

Fees charged by bailiffs for preparing and serving enforcement documents are governed by Grand Ducal Regulation, and comprise both fixed and proportional components.

Such fees are adjusted periodically. Bailiffs are entitled to the reimbursement of travel expenses incurred in the performance of their duties. When they are authorised to collect or receive sums owed by the debtor pursuant to a court decision or other enforceable title, bailiffs are also entitled to a collection fee calculated on the amounts recovered.

With regard to legal proceedings, the claimant is generally required to advance the legal costs, which include bailiff and notary fees but not lawyers' fees. As a general rule, the unsuccessful party is ultimately ordered to bear the legal costs. However, the court

may depart from this principle and order that each party bear its own costs.

2.4 Post-Judgment Procedures for Determining Defendants' Assets

Please see **1.1 Options to Identify Another Party's Asset Position**.

2.5 Challenging Enforcement of Domestic Judgments

A debtor can challenge the enforcement of a Luxembourg judgment by lodging an appeal. If all appeals are exhausted, the debtor could also challenge the enforceability of the judgment itself, or the validity of the enforcement measures taken.

A bailiff's enforcement measures may be challenged by any person whose rights are affected by the measure. Such challenges are brought before the district court.

The challenge period is three weeks and generally runs from the date the decision or, where applicable, from the date on which the party concerned was served or notified.

Filing a challenge does not ordinarily suspend the enforcement procedure unless the court orders otherwise. If the appeal is upheld, the court may annul or amend the bailiff's decision. In certain circumstances, a bailiff may also correct obvious errors on their own initiatives.

2.6 Unenforceable Domestic Judgments

Enforcement encompasses all proceedings aimed at giving effect to obligations enforceable against a debtor's assets. This may require the debtor to pay a sum of money, perform or refrain from performing a specific act, or deliver or return property. Once a judgment becomes enforceable, it is an enforceable title. In principle, any creditor holding an enforceable judgment may seek compulsory enforcement.

2.7 Register of Domestic Judgments

In Luxembourg, selected court decisions are published (anonymised or otherwise redacted, to protect the parties' privacy) through the Luxembourg Justice

Portal, which serves as the principal official database for Luxembourg case law.

The register of judgments held by the court clerks is not public, and neither are the briefs and underlying documents exchanged between the parties and submitted to the court.

3. Foreign Judgments

3.1 Legal Issues Concerning Enforcement of Foreign Judgments

Enforcement of a Judgment From a Foreign Country

Luxembourg often deals with the recognition and enforcement of foreign judgments. The applicable procedure depends primarily on the country in which the judgment was rendered, and whether its recognition and enforcement are governed by an applicable international instrument.

For enforcement purposes, foreign judgments fall into three categories. Distinction must be made between:

- judgments originating from member states of the European Union (EU);
- judgments rendered in states bound by an international convention applicable in Luxembourg; and
- judgments originating from states for which no such international regime exists.

The legal issues arising in the enforcement process vary significantly depending on which category applies.

EU judgments

Brussels I Recast Regulation

The principal instrument governing the recognition and enforcement of judgments within the EU is 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 (recast) – the Brussels I Recast Regulation. It does not apply to matters such as personal status and legal capacity, matrimonial property, insolvency, social security, arbitration, maintenance obligations, or wills and succession,

for which other instruments apply. Creditors should also look into other EU agreements for enforcing their claims, such as the European order for payment, the European enforcement order for undisputed claims, the EAPO (see **1.1 Options to Identify Another Party's Asset Position**), or the EU.

The Brussels I Recast Regulation is founded on the principles of mutual trust and the free circulation of judgments within the EU.

One of the Brussels I Recast Regulation's most significant innovations is the abolition of the traditional exequatur procedure. Accordingly, a judgment rendered in one member state is generally recognised and enforceable in another without the need for a prior declaration of enforceability.

Consequently, a creditor seeking enforcement in Luxembourg will generally only be required to produce:

- a copy of the judgment satisfying the necessary authenticity requirements; and
- the certificate issued pursuant to Article 53 of the Brussels I Recast Regulation.

Luxembourg courts may refuse recognition or enforcement only in limited cases. In fact, the Brussels I Recast Regulation lists the grounds upon which recognition and, consequently, enforcement, may be refused by the courts of the member state in which the enforcement is sought.

These grounds are the following:

- if the foreign judgment is such that its recognition would be manifestly contrary to public policy in that EU member state;
- if the foreign judgment was given by default in a manner that prevented the defendant from arranging a defence, as under conditions provided by the Brussels I Recast Regulation;
- if the foreign judgment is irreconcilable with another judgment given between the same parties in the EU member state in which the request is made;
- if the foreign judgment is irreconcilable with an earlier judgment from another EU member state (or a third state) between the same parties, concerning

the same cause of action, that itself may be recognised in the EU member state in which the request is made; and

- if the court in the EU member state of origin took jurisdiction in breach of the provisions of the Brussels I Recast Regulation.

It goes without saying that the judgment must be enforceable in the EU member state in which it was rendered.

Judgments covered by international conventions

Article 679 of the NCPC establishes a simplified procedural framework applicable to decisions rendered in a foreign state that is bound with Luxembourg by an international treaty governing the recognition and enforcement of judgments. Provided that the necessary conditions are met, the court must, within the context of an ex parte procedure, grant an exequatur order. Two main conventions bind Luxembourg.

The 2007 Lugano Convention

The convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the 2007 Lugano Convention) applies to judgments originating from EU member states as well as Switzerland, Norway and Iceland. The convention largely mirrors the Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I Recast Regulation).

The 2019 Hague Convention

Luxembourg has ratified the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments which facilitates the effective international circulation of judgments in civil and commercial matters.

On 29 August 2022, the EU deposited its instrument of accession to the 2019 Hague Judgments Convention, becoming the largest contracting party to the Convention. The Convention entered into force on 1 September 2023, including in respect for Ukraine. The EU's accession is binding on all its member states, with the exception of Denmark.

Following the end of the Brexit transition period on 31 December 2020, judgments rendered by the court of

England and Wales after that date are no longer governed by the Brussels I Recast Regulation. However, the UK ratified the 2019 Hague Judgments Convention on 27 June 2024, and the Convention entered into force on 1 July 2025.

The definition of “judgment” under the 2019 Hague Judgments Convention covers any decision on the merits rendered by a court in the civil and commercial matters, subject to certain exclusions, including insolvency, intellectual property, privacy and certain antitrust matters.

It should also be noted that arbitration and related proceedings fall outside the scope of the 2019 Hague Judgments Convention, as do judgments providing for interim measures of protection. Compared with the Brussels I Recast Regulation and the 2007 Lugano Convention, the grounds on which recognition and enforcement may be refused are broader under the 2019 Hague Judgments Convention.

Such grounds include but are not limited to:

- the judgment being obtained by fraud;
- recognition or enforcement being manifestly contrary to the public policy of the state where enforcement is sought (including situations where the foreign judgment has been obtained by violating fundamental principles of procedural fairness applicable in the state where enforcement is sought and situations involving infringements of security or sovereignty of the state where enforcement is sought); or
- the judgment conflicting with a prior judgment issued by a court of the state where enforcement is sought involving the same parties and subject matter (or with an earlier foreign judgment which meets the conditions for recognition and enforcement in the state where enforcement is sought).

The 2005 Hague Convention

The recognition and enforcement of foreign judgments between Luxembourg and other contracting states may also be governed by the 2005 Hague Choice of Court Convention.

The 2005 Hague Choice of Court Convention applies where the parties have concluded an exclusive choice of court agreement designating the courts of a contracting state. Subject to the conditions laid down in the Convention, judgments rendered by the chosen court must be recognised and enforced in the other contracting states.

Subject to the conditions laid down in the 2005 Hague Choice of Court Convention, a judgment given by the chosen court must be recognised and enforced in the other contracting states. The requested court may not review the merits of the judgment and may refuse recognition or enforcement only on the limited grounds set out in the Convention.

Recognition or enforcement may be refused, in particular, where the choice of court agreement was null and void under the law of the chosen court, where a party lacked capacity to conclude the agreement, where the defendant was not properly notified of the proceedings, where the judgment was obtained by fraud, where recognition or enforcement would be manifestly incompatible with the public policy of the requested state, or where the judgment is inconsistent with another judgment between the same parties.

Recognition or enforcement may also be refused to the extent that the judgment awards damages, including exemplary or punitive damages, that do not compensate a party for actual loss or harm.

The 2005 Hague Choice of Court Convention therefore provides a predictable framework for the enforcement of judgments based on exclusive jurisdiction clauses, while preserving essential safeguards relating to due process, fraud, public policy, and inconsistent judgments.

Judgments issued in countries without conventions with Luxembourg

Pursuant to Article 678 of the NCPC, a judgment rendered in a country not bound by an international instrument governing the recognition of judicial decisions may be enforced in Luxembourg only after an exequatur order has been granted.

Accordingly, an application for exequatur must be filed before the District Court of the place where enforcement is sought. If the statutory conditions are met, the court will issue a judgment conferring enforceability on the foreign decision within the Grand Duchy of Luxembourg.

It should be noted, however, that exequatur is required only where enforcement is sought, that is, where measures are taken to seize property or compel a person to perform or refrain from performing a particular act (“lorsqu’il s’agit de procéder à des actes d’exécution matérielle sur les biens, ou de coercition sur les personnes”).

3.2 Variations in Approach to Enforcement of Foreign Judgments

Some judgments are obtained under a specific regime and will thus be submitted to specific enforcement rules. This is the case for certain specialised European regulations provide additional enforcement mechanisms. These include the following.

- European Enforcement Order (EEO): Regulation (EC) No 805/2004 allows uncontested claims certified as European Enforcement Orders to circulate and be enforced throughout participating member states without exequatur.
- European Order for Payment: Regulation (EC) No 1896/2006 establishes a simplified procedure for recovering uncontested cross-border monetary claims.
- European Small Claims Procedure: Regulation (EC) No 861/2007 provides a simplified procedure for low-value cross-border disputes and facilitates enforcement of resulting judgments.
- Insolvency Proceedings: Cross-border insolvency judgments and decisions are governed principally by Regulation (EU) 2015/848 on insolvency proceedings.

3.3 Categories of Foreign Judgments Not Enforced

Enforcements of foreign judgments are not automatic. There can be grounds for Luxembourg courts to refuse the enforcement and even recognition of foreign judgments in Luxembourg.

If EU legislation or international conventions are applicable, the conditions of refusal of enforcement are set out in the respective instrument. In the absence of application of EU legislation or an international convention, Luxembourg Courts will be checking whether the foreign judgment meets the general conditions required for recognition and enforcement in Luxembourg.

In particular, the courts will verify whether:

- the judgment is enforceable in its state of origin;
- it was issued by a court that is recognised in Luxembourg;
- the originating court had jurisdiction under Luxembourg private international law;
- that court also had jurisdiction under its own procedural rules;
- the law applied by the foreign court corresponds to the law designated by Luxembourg conflict-of-laws rules;
- the proceedings respected fundamental procedural guarantees, including the rights of defence;
- the defendant was properly notified of the proceedings;
- the judgment is not contrary to Luxembourg international public policy;
- it does not conflict with a decision from a Luxembourg court;
- it was not obtained by fraud; and
- it contains an operative order capable of being enforced.

If these requirements are satisfied, the court may issue an exequatur order, after which the claimant serves notice of that order on the defendant. If the requirements are not satisfied, the court will refuse to declare the judgment enforceable in Luxembourg.

As a result, among other things, judgments contrary to Luxembourg international public policy, judgments rendered in breach of due process or rights of defence, judgments obtained by fraud and judgments that are irreconcilable with another judgment will not be declared enforceable in Luxembourg.

3.4 Process of Enforcing Foreign Judgments

If EU legislation or international conventions are applicable, the steps of the process of enforcement are set out in the respective instrument. In the absence of application of EU legislation or an international convention, the general conditions required for recognition and enforcement in Luxembourg of foreign judgments will apply.

Therefore, before taking any enforcement steps, it is necessary to determine whether the judgment falls under EU law, such as the Brussels I Recast Regulation, or a treaty-based regime, such as the Lugano Convention, the 2019 Hague Judgments Convention or the 2005 Hague Choice of Court Convention, or, instead, under Luxembourg domestic exequatur rules.

Luxembourg law draws a clear distinction between recognition and enforcement.

Recognition means that the foreign decision is accepted as producing legal effects in Luxembourg.

Enforcement goes further and allows the creditor to use coercive measures, such as attachment or execution against assets located in the country.

A judgment may therefore be recognised in principle but still require additional procedural steps before it can actually be enforced.

If the judgment was issued in another EU member state and falls within the material scope of the Brussels I Recast Regulation, the creditor will usually need to produce:

- an authentic copy of the judgment rendered by the court of origin; and
- the certificate issued by the court of origin confirming that the decision is enforceable in its country of origin and setting out the necessary information for enforcement (the Article 53 certificate).

If required, a translation may also have to be provided.

Once those formalities are met, the judgment may in principle be enforced in Luxembourg without exequatur, in the same way as a domestic enforceable judgment.

ment, subject only to the limited refusal grounds provided by the Brussels I Recast Regulation.

In cases where the 2007 Lugano Convention, the 2019 Hague Convention or the 2005 Hague Choice of Court Convention is applicable, the exequatur procedure may be granted pursuant to the procedure laid down in Articles 680-685 of the NCPC, which provide for a simplified exequatur.

The requesting party must submit an ex parte application to the president of the District Court and produce a copy of the judgment and any documents necessary to establish that the judgment has effect. Generally, a declaration of enforceability is still required.

With no convention or international instrument, in order to be granted legal effect in Luxembourg, adversarial civil court proceedings before the district court will be initiated. Following the exchange of written and oral pleadings, a decision is rendered that will be subject to appeal within 40 days after being served. The judge must ensure that the conditions mentioned above are satisfied.

With the exception of conservatory measures, only after exequatur proceedings may enforcement proceedings be initiated. They relate to coercive measures taken by the foreign judgment creditor over assets owned by the debtor and located in Luxembourg. The foreign judgment has to be enforceable in its country of origin. The transfer of assets from the judgment debtor to the creditor may only be ordered once the foreign judgment has been duly exequatured.

3.5 Costs and Time Taken to Enforce Foreign Judgments

The costs and timeframe for enforcing foreign judgments depend on whether the foreign judgment was rendered in an EU member state or non-EU jurisdiction.

Neither time nor costs tend to be too high under Brussels I Recast Regulation as the procedure requires only that the creditor seeking enforcement in another member state produce an authentic copy of the judgment together with the Article 53 certificate. Judicial proceedings will only occur if the debtor challeng-

es the enforcement and launches proceedings to obstruct the enforcement in Luxembourg.

Where enforcement is sought under an applicable international convention, the “simplified” exequatur enables the applicant to apply to the president of the District Court to obtain an ex parte basis decision within a few weeks. However, any appeal against the decision may significantly extend the overall duration of the proceedings.

In the absence of an applicable convention or international instrument, the exequatur proceedings are adversarial and follow the ordinary rules of civil procedure.

As a result, the proceedings may take several years if appeals are pursued. The time required to enforce a foreign judgment will also depend on the extent to which the judgment debtor contests enforcement.

3.6 Challenging Enforcement of Foreign Judgments

Under the Brussels I Recast Regulation, the general rule is that a judgment given in another member state may be enforced in another member state without the need for a prior exequatur procedure. As enforcement may therefore commence without delay, the Brussels I Recast Regulation enables the debtor to apply to the court of the jurisdiction in which enforcement is made, to order measures to control or suspend pending the determination of an application for refusals of enforcement.

Where such application has been made, the court of the member state where enforcement is sought has the discretion, at the request of the debtor, to opt for one of the following:

- protective measures – the court may limit the enforcement to conservatory steps, such as preserving assets, without allowing full execution;
- security – the court may allow the enforcement to continue only if the creditor provides security in an amount or form fixed by the court; or
- suspension – the court may stay the enforcement entirely or only as to part of the enforcement measures.

Following the court's decision on protective measures, security or suspension, a challenge to enforcement does not automatically prevent the enforcement from proceeding. However, the debtor may apply to the court for interim protective measures pending the determination of the challenge.

The right to appeal an enforcement decision is governed by Articles 49 and 50 of the Brussels I bis Regulation. Since this regulation abolished the requirement for an exequatur, the initial enforcement of a judgment is not itself subject to appeal. Instead, either party may appeal a decision granting or refusing an application for refusal of enforcement.

Under Article 685-4 of the NCPC applications for refusal of enforcement, applications for a declaration that there are no grounds for refusing recognition, applications for a refusal of recognition, and applications for a stay of enforcement of a foreign judgment are brought before the president of the District Court sitting in summary proceedings. Appeals against the president's decision are brought to the Court of Appeal, also sitting in summary proceedings. The appeal must be brought in accordance with the procedural rules and time limits applicable to summary proceedings. A decision of the Court of Appeal may, in turn, be appealed before the Supreme Court (*Cour de cassation*) in accordance with the procedures and time limits applicable to ordinary civil proceedings.

Under the simplified exequatur regime (eg, judgments enforced under the 2007 Lugano Convention or the 2019 Hague Judgments Convention), the party against whom enforcement is sought may appeal the ex parte decision before the Court of Appeal within one month of service of the decision, or within two months if the appealing party is domiciled abroad. The decision of the Court of Appeal may then be appealed before the Supreme Court pursuant to Article 682 of the NCPC.

Under the general domestic regime, a judgment granting recognition or enforcement of a foreign judgment may be appealed before the Court of Appeal and, subsequently, before the Supreme Court.

4. Arbitral Awards

4.1 Legal Issues Concerning Enforcement of Arbitral Awards

Luxembourg has become an increasingly attractive jurisdiction for arbitration following the reform of its arbitration law, which entered into force on 25 April 2023. The new provisions, incorporated into Articles 1224-1249 of the NCPC are inspired by the UNCITRAL Model Law and modern French arbitration law. Luxembourg is also a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention).

The New York Convention, however, provides that the law of the state where the recognition or enforcement of an arbitral award is sought must apply if it is more favourable to recognition and enforcement than the New York Convention. This is the case under Luxembourg law in certain respects, particularly with regard to annulled arbitral awards.

Arbitral awards are generally binding on the parties once they have been rendered. However, compulsory enforcement requires the award to be declared enforceable through an exequatur procedure. Luxembourg courts adopt a pro-arbitration approach, and limit their review to specific procedural and public policy concerns. Unlike an appellate court, the dispute or the correctness of the arbitrator's reasoning is not reconsidered.

4.2 Variations in Approach to Enforcement of Arbitral Awards

The parties' agreement to submit a dispute to arbitration is formalised in an arbitration agreement, which may be concluded even after court proceedings have been commenced.

An arbitral award has the same force as a court judgment, and is immediately binding on the parties. Except for in sole arbitrator cases, it must be rendered and signed at least by a majority of the arbitrators.

Unless otherwise agreed by the parties, the award must be reasoned – ie, it must state the reasons upon which it is based.

Enforcement of the award in Luxembourg may be obtained through a straightforward exequatur procedure, described below.

Domestic Awards

Where an award is rendered in Luxembourg, enforcement requires an exequatur granted by the president of the competent District Court. The application is generally determined *ex parte*, meaning that no other party is heard at this stage.

An order granting exequatur is not itself subject appeal. However, it may be challenged, together with the arbitral award, by means of an application for annulment.

By contrast, an order refusing exequatur may be appealed.

The other party or parties to the arbitration must be summoned before the Court of Appeal. The Court of Appeal will determine both the appeal against the exequatur order and the application for annulment, unless the time limit for launching annulment proceedings has expired.

International Awards

Where the seat of arbitration is outside the Grand Duchy of Luxembourg, the exequatur must generally be sought before the President of the District Court where the debtor is domiciled, or, if the debtor is not domiciled in Luxembourg, where enforcement is sought.

An order granting or refusing exequatur may be challenged by either party within one month of service of the order. In exceptional circumstances – eg, where the order was obtained by fraud or where new evidence subsequently comes to light, the order may also be revised.

4.3 Categories of Arbitral Awards Not Enforced

There are only limited circumstances in which enforcement may be refused. The courts will not refuse enforcement merely because they disagree with the arbitral tribunal's findings of fact or conclusions of law. However, jurisdictional and procedural irregularities

can lead to the refusal of enforcement. The principal limitation on the recognition or enforcement of arbitral awards is that the arbitral award must not be manifestly contrary to public policy.

Under Article 1234 of the NCPC, the exequatur may be refused where the award is manifestly affected by one of the grounds for annulment set out in Article 1238 of the NCPC. These grounds include:

- the arbitral tribunal wrongly declaring itself competent or incompetent;
- the arbitral tribunal being irregularly constituted;
- the arbitral tribunal ruling without conforming to the mission entrusted to it;
- the award being contrary to public policy;
- the award not being reasoned, unless the parties have exempted the arbitrators from providing reasons; or
- violation of the rights of defence.

A revision leading to the withdrawal of the award can also be sought if:

- the award was obtained by fraud;
- decisive evidence was concealed during arbitration later emerges;
- the award was based on forged documents; or
- false testimony or false statements materially affected the award.

The grounds for setting aside an arbitral award in Luxembourg are broadly similar to those applicable under French law.

For international awards, the Court of appeal may refuse to grant an exequatur if:

- the arbitral tribunal wrongly declared itself competent or incompetent;
- the arbitral tribunal was irregularly constituted;
- the arbitral tribunal ruled without conforming to the mission entrusted to it;
- the award was contrary to public policy;
- the award was not reasoned, unless the parties have exempted the arbitrators from providing reasons;
- there has been a violation of the rights of defence;

- the award was obtained by fraud;
- decisive evidence was concealed during arbitration later emerges;
- the award was based on forged documents; or
- false testimony or false statements materially affected the award.

4.4 Process of Enforcing Arbitral Awards

Enforcement begins with an application for exequatur. The procedure is generally ex parte and is brought before the president of the District Court.

The applicant must usually produce originals or certified copies of:

- the arbitral award; and
- the arbitration agreement.

These must also be translated if not drafted in one of Luxembourg's recognised judicial languages.

The court conducts only a limited review and verifies whether any statutory grounds for refusal or revision (if applied for) exist (see **4.3 Categories of Arbitral Awards Not Enforced**). It does not reconsider the merits of the dispute.

An application to set aside an arbitral award does not have a suspensive effect. However, the Court of Appeal, sitting in summary proceedings, may stay or limit the enforcement where continuing the enforcement is likely to cause serious prejudice to one of the parties.

The arbitral award may also be subject to third-party opposition.

Foreign arbitral awards follow a similar procedure. The application is submitted to the competent court and, once recognised, the arbitral award may be enforced using the same domestic enforcement mechanisms applicable to Luxembourg judgments.

4.5 Costs and Time Taken to Enforce Arbitral Awards

The costs and timeframe for enforcing an arbitral award depend on whether the award is domestic or

international, and one where enforcement is challenged.

Application for exequatur are generally dealt with swiftly, particularly, where they are determined ex parte. However, where appeals or applications to set aside or revise the award are brought, the overall duration of the proceedings may increase significantly.

The costs of enforcement include court fees, legal representation, translation cost where applicable, bailiffs' fees incurred in the execution of the arbitral award. As with the enforcement of court judgments, the successful party will generally seek recovery of its costs, at the court's discretion.

Where enforcement is challenged, the length and cost of the proceedings will depend on the complexity of the issue raised, the conduct of the parties and the availability of appeals.

4.6 Challenging Enforcement of Arbitral Awards

Luxembourg law significantly restricts challenges against arbitral awards in order to preserve the finality of arbitration. Accordingly, arbitral awards are not subject to the ordinary appellate review available for court judgments.

Challenging Refusal of Exequatur

Under Article 1235 of the NCPC, an order refusing exequatur must state the reasons on which it is based and may be appealed. The appeal must be lodged within one month of notification.

By contrast, an order granting exequatur is not itself subject to appeal.

Challenging Awards Through Annulment

Pursuant to Article 1237 of the NCPC, an arbitral award rendered in Luxembourg may be challenged only by application to set aside through an action for annulment before the Court of Appeal. The action is available only on the limited grounds mentioned in **4.3 Categories of Arbitral Awards Not Enforced**.

An application to set aside an arbitral award does not automatically suspend enforcement. However,

the Court of Appeal may order a stay of enforcement or vary the enforcement where continued immediate enforcement is likely to cause serious prejudice.

Recognition of Annulled Awards

The case law of the Court of Appeal in respect of recognition of annulled awards is not yet clearly set, and depends on the legal provisions applicable to the exequatur proceedings. While, in 1999, the Court of appeal stated that the annulment of an award in the seat of arbitration was not a reason for refusing its enforcement in Luxembourg, in 2017, within the context of the enforcement of an award under the New York Convention, it ruled under Article V, paragraph 1, point e) of that same convention that, if the annulment of an award is proven, the refusal of the exequatur is founded.

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