

# S.E.R.A.F.I.M.

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- ✓ Recognition of foreign judgments in Ukraine
- ✓ Enforcement of court decisions in Ukraine, including foreign courts decisions
- ✓ Enforcement of arbitral awards in Ukraine
- ✓ Debt collection in Ukraine
- ✓ Searching for property in Ukraine
- ✓ Searching for the debtors residence in Ukraine
- ✓ Providing information about your counterparty
- ✓ Checking your counterparty
- ✓ Presentation of courts notifications in Ukraine
- ✓ Solving other problematic issues in Ukraine

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## Recognition and enforcement of foreign court judgments in Ukraine

### Procedure

#### 1. General rule

Pursuant to international public law, no state is obliged to recognize court judgments of other states and enforce them on its territory. The international obligation to recognize and enforce a foreign court judgment becomes effective only upon adherence to the relevant international treaty.

#### 2. Legal basis for recognition of the foreign court judgement in Ukraine

Pursuant to paragraph 1 of Article 462 of the Civil Procedure Code of Ukraine, recognition and enforcement of foreign court judgments on the territory of Ukraine is performed on condition that there are the appropriate international treaty ratified by Ukraine or the principle of reciprocity is established and followed. In addition, the Code provides the following definition of a foreign court judgment: a foreign court judgment is a judgment of a court or other authority of a foreign state, under the competence of which is to make obligatory decisions in civil and commercial matters for enforcement on the territory of such foreign state, and also awards of international and foreign arbitral tribunals.

##### a. International treaty

In 2023, the EU Council agreed to establish contractual relations with Ukraine under the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. The so-called Convention on the Enforcement of Judgments, concluded in 2019, is an international treaty that obliges contracting states to recognize and enforce judgments made in other contracting states in civil or commercial matters. In 2022 Ukraine ratified the agreement according to which contractual relations between Ukraine and the EU will start on September 1, 2023.

## **b. Reciprocity principle**

As mentioned above, recognition and enforcement of foreign court judgments in Ukraine is also possible on the ground of reciprocity principle. Thus, existence of such principle on bilateral recognition of court judgments is presumed, if otherwise is not evidenced in each specific case (Article 462 of the Civil Procedure Code of Ukraine). However, it should be noted that this principle was introduced only as of 16 February 2010 following adoption of amendments in the Civil Procedure Code of Ukraine. Prior to that date, only ad hoc principle was recognised in Ukraine, i.e. recognition and enforcement of foreign court judgments, except under international treaties, was only possible in special cases under certain limited conditions.

The similar description of the reciprocity principle is also contained in paragraph 1 of Article 328 of the Civil Procedure Code of Germany, pursuant to which implementation of the reciprocity principle in a country of origin of judgment is a necessary condition for recognition and enforcement of a foreign judgment in Germany. The term 'implementation' refers not to existence or absence of the appropriate international treaties or a separate decision of a foreign state authority, but rather to the fact that recognition and enforcement of German court judgments in the relevant country shall not face more significant obstacles than recognition and enforcement of a foreign judgment in Germany.

Therefore, as of now there are no considerable obstacles for mutual enforcement and recognition of court judgments between Ukraine and Germany.

## **3. Recognition in Ukraine**

### **a. Term**

The procedure for recognition of a foreign court judgment in Ukraine might be commenced within three years following entry into force of the relevant foreign judgment.

### **b. Location**

In Ukraine, application on recognition and enforcement of a foreign court judgment is considered by the courts of general jurisdiction at the place of location of the debtor. Location of the representative office of a foreign legal entity might be, *inter alia*, evidenced by the relevant representative office in Ukraine.

If the debtor does not have the permanent location in Ukraine, or such location is unknown, application on recognition of a foreign court judgment can be submitted at the place of location of the property of such debtor. An official document of the relevant officer/authority serves as confirmation of the fact that the property of the debtor is located in Ukraine. For example, the official letter of the port administration will serve as confirmation of location of a sea vessel on the territory of Ukraine or in its internal water or ports.

### **c. Documents**

The following documents shall be attached to the application on recognition of a foreign court judgment (Article 466 of the Civil Procedure Code of Ukraine):

- 1) A duly notarized copy of the judgment in relation to which the application is submitted;
- 2) The official confirmation of the fact that the judgment came into force (in the event if this is not clear from the text of the judgment);
- 3) A document certifying that the party against whom a foreign court judgment was made and which did not participate in a court hearing, have been properly notified of the time and place of a court hearing
- 4) A document certifying the date from which or in what part the judgment shall be enforced (if the judgment was partly performed);
- 5) A document certifying the authority of the representative (in the event if the application is submitted by a representative of the applicant)
- 6) A duly certified translation into Ukrainian of the above documents.

Ukrainian court, pursuant to a foreign court judgment and a Ukrainian court judgment on recognition, issues the appropriate court order on enforcement of the relevant foreign court judgment. Such court order is transferred for execution by the State Enforcement Service of Ukraine.

It is worth mentioning that the application on recognition of a foreign court judgment is satisfied subject to the grounds for refusal in recognition. For example, if a foreign court decided in a case which should have been resolved under the exclusive competence of Ukrainian courts (see Article 77 of the Law of Ukraine “On International Private Law” dated 23 June 2005, which establishes the exclusive competence of Ukrainian courts in cases in relation to immovable property located on the territory of Ukraine).

## **4. Enforcement of foreign court judgments**

A foreign court judgment might be enforced in Ukraine within three years following entry into force of the relevant foreign judgment.

The exceptions are judgments on collection of periodic payments. Such judgments could be submitted for enforcement at any time, but enforcement might be taken only in relation to payments for the last three years prior to the enforcement date.

Enforcement of a foreign court judgment on the territory of Ukraine is carried out on par with a Ukrainian court judgment by the enforcement authorities in accordance to the Law of Ukraine ‘On Enforcement’.

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