

No reciprocity for Swiss and German judgments in Jordan

Two recent rulings of the Supreme Court of the Hashemite Kingdom of Jordan refused recognition and enforcement of German and Swiss judgments on maintenance on grounds of no reciprocity.

I. First case: No reciprocity with Germany

1. The facts

The applicant was the wife of the respondent, both Jordanian nationals. She filed several applications before German courts in Stuttgart, and obtained a number of final judgments ordering payments for alimony to her benefit. Due to non payment by the husband, she filed an application for the recognition and enforcement of the German judgments in Jordan. The Court of first instance declared the judgments enforceable in Jordan in 2009. The husband appealed. The Amman Court of Appeal issued its decision January 2015, revoking the appealed decision. The wife filed a second appeal (cassation).

2. The ruling of the Supreme Court of Cassation

Initially, the Supreme Court underlined the lack of a judicial cooperation agreement between the Hashemite Kingdom of Jordan and Germany, which leads to the application of the Jordan law on the recognition and enforcement of foreign judgments. The Supreme Court stressed out that for the purposes of a foreign judgment being executed in Jordan, the conditions stipulated in the Law on Execution of Foreign Judgments No. (8) of 1952 must be met. It then referred to the provisions of Article (7/2) of the law, which states that the court may reject the application requesting the execution of a judgment issued by a court of any country whose law does not allow the recognition of judgments issued by the courts of the Hashemite Kingdom of Jordan.

The Supreme Court refers then to the order of the Amman Court of Appeal to the applicant, by virtue of which the latter was invited to provide evidence whether German laws allow the recognition of judgments issued by Jordanian courts. Based on the letter received by the Ministry of Justice in December 2014, the

Court of Appeal concluded that there is no reciprocity between Jordan and Germany to recognize judgments issued by their courts.

On the grounds aforementioned, the Supreme Court dismissed the cassation and confirmed the ruling of the Amman Court of Appeal [Jordan Court of Cassation, the Hashemite Kingdom of Jordan, Ruling issued at 9/2 /2020].

II. Second case - No reciprocity with Switzerland

1. The facts

The parties were a Romanian wife (applicant in Jordan and claimant in Switzerland) and a Jordanian husband (defendant in Switzerland and appellant in Jordan). The applicant obtained a set of decisions against the respondent, including the right of guardianship over the child resulting from their marriage, and maintenance. In 2019, the wife filed an application for the recognition and enforcement of a number of judgments issued by Zurich courts. Both the North Amman Court of First Instance and the Amman Court of Appeal allowed the recognition of the Swiss judgments. The husband lodged a second appeal in March 2020, invoking a number of grounds for cassation. The focus is on the 9th and 10th ground, namely the following:

- a. The instance courts erred and violated the text of Article 7/2 of the Foreign Judgment Execution Law by not responding to his request, that Swiss courts do not recognize judgments issued by Jordanian courts.
- b. The Court of Appeal was mistaken by not allowing evidence to be presented, demonstrating that Swiss courts do not accept rulings issued by Jordanian courts

2. The ruling of the Supreme Court of Cassation

In response to the above, the Supreme Court stated that for the purposes of the foreign judgment being executed within the Kingdom, it is imperative that the recognition meets the conditions stipulated in the Law on Execution of Foreign Judgments No. (8) of 1952. By referring to the provisions of Article (7/2) of the same law, the Supreme Court reproduced the wording of the provision, namely, that the court may also reject the application requesting the execution of a judgment issued by one of the courts of any country whose law does not permit the recognition of judgments issued by the courts of the Hashemite Kingdom of

Jordan. What is learned from this text, the Supreme Court continues, is that reciprocity must be available, and the ruling does not violate public order.

The Supreme Court granted the appeal with the following reasoning:

- the Court of Appeal omitted to examine whether there was reciprocity between Jordan and Switzerland to mutually recognize judgments issued by their courts;
- it also failed to address the Ministry of Justice to clarify whether there was reciprocity, and that the judgments issued by the Jordanian courts are recognized by the courts of Switzerland, and then to evaluate the respective evidence.

Based on the above, the Supreme Court decided to refuse recognition of the Swiss judgments [Jordan Court of Cassation, the Hashemite Kingdom of Jordan, Ruling issued at 21/9/2020].