

Limitation period of the enforcement of a UK judgment in Greece

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A judgment issued by the Division of Maritime Disputes of the Piraeus first instance court at the end of last year [nr. 3400/2024, unreported] was confronted with an issue which seldomly appears before Greek courts.

The issue raised before the Piraeus Court of First Instance, in the context of Regulation 44/01, was the following: ***Is it permissible to revoke the recognition of a foreign (English) judgment (order) that was declared enforceable in Greece, when allegedly it is no longer enforceable in the State of origin?***

The court approached the case from three perspectives:

Firstly, it clarified that a decision of the Supreme Court issued five years ago [Areios Pagos nr. 767/2019], allowing the revocation of the enforceability of a foreign judgment under similar circumstances according to Greek law, cannot be considered as relevant precedent, because it concerned a US judgment, and not a decision of an EU Member State court of law.

It then examined and highlighted the relevant jurisprudence of the CJEU, which *ratione materiae* resembles to the dispute at issue, i.e., under the Brussels I regime. It stressed that revocation of enforceability under Reg. 44/01 is strictly allowed for specified grounds only, with the case at hand, i.e., loss of enforceability in the state of origin, not being such a ground. The party against whom enforcement is sought in the executing Member State, could raise such a ground, only in the context of enforcement proceedings in the executing state, the court clarified.

Finally, it went into a detailed analysis and reference to the defences against enforcement under English law, focusing on the provisions of the UK Civil Procedure Rules and the Limitation Act, and identifying relevant case law of the

English courts. Relevantly, the Piraeus court rejected in substance the arguments raised by the applicants, noting that under English law the judgment of the English court at hand had not lost its enforceability in principle, but rather that special conditions must be met for enforcement in UK to be authorised (i.e., existence of property there, not previously found). Juxtaposing English and Greek law, the Piraeus court made the distinction of enforceability of judgments and the existence of additional modalities, procedures or preconditions that must be fulfilled for enforcement proceedings to take place.

This is one of the rare decisions published by Greek courts, which demonstrates the potential complexity of the subject matter under the Brussels I Regulation, which reappears sporadically, although it gave way to Regulation 1215/2012 some ten years ago.

The specificity of the case lies in the distinctive time of its occurrence: the ground of refusal did not occur at one of the exequatur stages [application to declare enforceability, appeal, second appeal], but much later, when the remedies under Brussels I before the courts of the state of execution have been unsuccessfully exhausted by the debtor.

The likelihood of similar situations occurring under the current regime of Regulation Brussels I bis is scarce. In this case, the judgment debtor is left with either the opposition (stay of execution) under Article 933 of the Greek Code of Civil Procedure, or the filing of a negative declaratory action, in case the enforcement procedure has not been initiated by the judgment creditor.

Finally, let us not forget that the United Kingdom has left the European Union, and, for the time being, there is no direct commencement of enforcement in Greek territory, such as the model of Regulation nr. 1215/2012, not even the previous system of exequatur under EU Regulation nr. 44/2001. A new corridor is expected to open later this year, given that the UK has ratified the Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

For further reading on the issue, see *Requejo-Isidro(-Chiapponi)*, Brussels I bis, A Commentary on Regulation (EU) 1215/2012 (2022), Art. 41, nos. 41.22 et seq, *Althammer*, in: Simons/Hausmann, Brussels I Regulation - Kommentar zur VO (?G) 44/2001 und zum Übereinkommen von Lugano, Unalex Kommentar (2012),

Art. 38, nos. 26 & 29); *Geimer/Schütze*, *Europäisches Zivilverfahrensrecht* (3rd ed., 2010), Art. 41, no. 44 et seq.