

# New Rules on the Enforcement of Foreign Judgments in Saudi Arabia - Some Preliminary Observations



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## I. Introduction

The field of foreign judgments in the MENA region has witnessed additional legal developments. After Morocco, which adopted in February a new Code of Civil Procedure containing an updated regime for the enforcement of foreign judgments (see my previous on this blog), Saudi Arabia followed suit by adopting a new Execution Law (*Nizam at-Tanfidh*), approved by the Council of Ministers on 15 April 2026 (27-28 Shawwal 1447 H), which contains rules on the enforcement of foreign judgments. The new law replaces the existing Execution Law promulgated by Royal Decree No. M/53 of 3 July 2012 (13 Sha'baan1433 H).

The Execution Law governs, *inter alia*, the execution of “titles of obligation” (*sanadat tanfidhiyya* (pl.), *sanad tanfidhi* (sing.); lit. “enforceable titles”) in general, as defined by the Law. These include, among others, foreign judgments, foreign arbitral awards, and foreign authentic instruments declared enforceable in accordance with the rules set out in the Law. The new Execution Law (new Article 7) adds to the existing list (former Article 9) mediated settlement agreements concluded abroad. This addition appears to be linked to the fact that Saudi Arabia is a State Party to the 2018 Singapore Convention, which was ratified on 5 May 2020 and entered into force on 5 November of the same year.

## **II. Enforcement Requirements**

With respect to the regime applicable to the enforcement of foreign judgments, the new conditions are now laid down in new article 9 of the new Law.

New Article 9(1) of the 2026 Execution Law reads as follows (loose tentative translation):

*1. Without prejudice to the obligations of the Kingdom under international treaties and agreements, the court [the Execution Court] shall not declare enforceable a foreign judgment or order except on the basis of reciprocity and after examining that the following conditions are met:*

*a) The dispute in which the foreign judgment or order was rendered does not fall within the exclusive jurisdiction of the courts of the Kingdom.*

*b) There is no similar case pending in the Kingdom that was filed before the case in which the foreign judgment or order was rendered.*

*c) The parties to the proceedings in which the foreign judgment was rendered were duly summoned, properly represented, and given the opportunity to defend themselves.*

*d) The foreign judgment or order has become final, in accordance with the law governing the competent judicial authority that rendered it.*

*e) The foreign judgment or order does not conflict with a prior judgment or order—on the same subject matter—rendered by a competent judicial authority*

*in the Kingdom.*

*f) The foreign judgment or order does not violate the public policy of the Kingdom.*

Paragraph 2 deals with the enforcement of foreign arbitral awards and foreign mediated settlement agreements, while paragraph 3 deals with the enforcement of foreign authentic instruments.

### **III. Observations**

If we compare the new enforcement requirements with those set out in the 2012 Execution Law, we can see that most of them have been reproduced without any significant modification, although in some cases slightly different wording has been used. This is particularly true of the requirements listed in items (c) [service and the right of defence], (d) [finality], (e) [conflicting judgments], and (f) [public policy], as well as of the proviso, which contains a reference to the reciprocity requirement.

At the same time, some significant differences can be observed, particularly with respect to the rules on indirect jurisdiction (1) and the existence of a pending case before Saudi courts (2). Further important clarifications relate to two other fundamental issues: the prohibition of *révision au fond* (3) and the limitation period for enforcing titles of obligation (4).

#### **1. Indirect Jurisdiction**

First, the most notable change concerns the control of the indirect jurisdiction of the rendering court. Indeed, under the 2012 Execution Law, the jurisdiction of the foreign rendering court was subject to a double control: first, by verifying that the dispute did not fall within the jurisdiction of Saudi courts (in general, and without any specific limitation); and second, by checking that the rendering court had jurisdiction in accordance with its own rules of international jurisdiction.

The new Execution Law significantly modifies the scope of the jurisdictional

requirement and limits it to cases over which Saudi courts have exclusive jurisdiction. In doing so, the Saudi legislator joins other countries in the region that have adopted similar approaches, notably Tunisia (see Bélih Elbalti, “The Jurisdiction of Foreign Courts and the Enforcement of their Judgments in Tunisia: A Need for Reconsideration”, 8(2) *Journal of Private International Law* (2012) 195, and recently Morocco (see Bélih Elbalti, “The New Moroccan Framework on International Jurisdiction and Foreign Judgment Enforcement - A Preliminary Critical Assessment”, on this blog. For a comparative overview on the various approaches adopted in the MENA region, see Bélih Elbalti, “The recognition of foreign judgments as a tool of economic integration: Views from Middle Eastern and Arab Gulf countries”, in P. Sooksripaisarnkit and S. R. Garimella (eds.), *China’s One Belt One Road Initiative and Private International Law* (Routledge, 2018) 226; *idem*, “Perspective from the Arab World”, in M. Weller et al. (eds.), *The 2019 HCCH Judgments Convention - Cornerstones, Prospects, Outlook* (Hart, 2023) 187 ).

The problem with the new rule, however, is that Saudi law on international jurisdiction does not contain clear rules on what constitutes “exclusive jurisdiction.” The relevant provisions on international jurisdiction contained in the Law of Procedure before Sharia Courts (*Nizam al-Murafa’at al-Shar’iyya*, Royal Decree No. M/1 of 24 November 2013 (22 Muharram 1435H), Articles 24 to 30) do not define or clearly identify which heads of jurisdiction are exclusive. As a result, the scope of the requirement may remain uncertain in practice, which could lead to a restrictive or inconsistent approach in the recognition and enforcement of foreign judgments.

## **2. Pending case before Saudi Courts**

Item (b) of Article 9 of the new Law is an addition that has no equivalent in Article 11 of the 2012 Execution Law. While this requirement is generally found in the international conventions applicable in the region (notably the 1983 Riyadh Convention and the 1995 GCC Convention), it has almost no equivalent in the domestic legislation of Arab countries (with the notable exception of Lebanon. See Elbalti, “Perspective from the Arab World”, *op. cit.*, 192). It should be noted, however, that Article 9(b) requires that the action previously brought before Saudi courts and still pending be “similar (*mumathila*)” to the one in which the

foreign judgment was rendered. While the terminology used is somewhat vague, this suggests that both actions should involve the same subject matter (as is more clearly required in Article 9(e) concerning conflicting judgments). It is, however, unclear whether this requirement also extends to the identity of the parties.

### **3. Explicit prohibition to review the merits of foreign judgments**

Under the 2012 Execution Law, there is no explicit provision prohibiting a review of the merits of foreign judgments. Nevertheless, such a prohibition may be inferred from the imposition of a number of formal and procedural requirements for having foreign judgments declared enforceable. In judicial practice, the principle of the prohibition of *révision au fond* is frequently affirmed; however, some decisions suggest that it has not always been strictly observed (see Elbalti, “Perspective from the Arab World”, *op. cit.*, 185). The new Law has addressed this issue expressly in Article 4(2), which provides that “Subject to the provisions of Article (9) of the Law, the court shall ensure that the title of obligation satisfies its statutory requirements, without examining the merits of the right forming its subject matter”.

### **4. Limitation period to execution of the titles of obligations**

The new Enforcement Law clarifies the limitation period applicable to the execution of titles of obligation. Under new Article 11, execution lapses upon the expiry of ten (10) years from the date on which the title becomes due and enforceable. Although this rule also applies to foreign judgments as titles of obligation (Article 7 of the new Law), the wording of the provision suggests that it concerns foreign judgments only once they have been declared enforceable by the Execution Court. The Law, however, contains no specific limitation period governing the filing of an application for a foreign judgment to be declared enforceable in Saudi Arabia. This suggests that, in principle, judgment creditors may apply at any time for such a declaration. By contrast, once enforceability has been granted, actual execution will be barred upon the expiry of the ten-year limitation period.