No Exequatur Granted for a Panamanian Judgment in Greece Due to Public Policy Considerations [Piraeus Court of First Instance Case No. 2040/2026, Unreported]

INTRODUCTION

Following a significant hiatus, the public policy defense has re-emerged prominently in discussions surrounding the enforcement of foreign judgments, particularly in the context of a judgment issued by the Panama Maritime Court in 2024. The primary issue addressed by the Greek court was whether a foreign judgment could be recognized and enforced when the foreign court denied appellate proceedings due to the failure to post a security deposit that was both substantial and necessary for the appeal process.

FACTUAL BACKGROUND AND LEGAL FRAMEWORK

The case involved a claim for damages between a company based in Hong Kong and another company registered in the Marshall Islands. This dispute was adjudicated under Panama's maritime law, established by Law 8 of 1982 and updated by Law 55 of 2008, which governs maritime-related disputes through a specialized and efficient legal framework. The Panamanian maritime courts possess exclusive jurisdiction over in rem actions, enabling prompt vessel arrests and maritime liens within both Panamanian territorial waters and the Panama Canal for claims related to damages, cargo issues, and collisions.

The Panamanian court ruled in favor of the claimant, mandating the defendant to either return the vessel or pay approximately 45 million USD, i.e., the valuation of the vessel along with associated legal costs, as ordered by the court.

Subsequently, the judgment creditor sought recognition and enforcement of the

Panamanian judgment in Greece, as the vessel was docked within Greek territorial waters.

The opposing party contended that the ruling from the Panamanian Naval Court of First Instance contravened Greek public policy and the European Convention on Human Rights (ECHR), primarily because the appellate process was effectively obstructed. According to Article 490 of Panama's Maritime Courts and Disputes Law, the appellant was required to deposit a security of nearly 45 million USD (equivalent to the judgment amount and associated legal fees) within ten days to have its appeal considered.

The original text from Article 490 reads:

"Artículo 490. Para cursar la apelación se requerirá la consignación, ante la secretaría del Tribunal Marítimo de primera instancia, de una caución que garantice el pago del monto de la condena más las costas. Para determinar el monto de la caución se considerará la caución consignada para levantar el secuestro o el valor del bien secuestrado. Dicha caución será consignada dentro de los diez días siguientes a la notificación de la providencia que admita el recurso. Si el apelante no consigna la caución de que trata este artículo, el juez declarará desierto el recurso."

In light of the above, the excessive requirement for a security deposit resulted in the judgment debtor's appeal being dismissed, thereby forfeiting its right to be heard.

FINDINGS OF THE GREEK COURT.

The Greek court recognized that while imposing a financial guarantee as a prerequisite for appeal can have legitimate justifications, such as discouraging vexatious litigation and promoting judicial efficacy, the circumstances in this case revealed that the requirement was manifestly disproportionate and unduly burdensome. The court articulated the following concerns:

– The required guarantee matched the total amount of the initial judgment plus costs.

– There was no cap, no exceptions, and no discretion for reduction based on the

specifics of the case.

– It effectively forced the appellant to comply with the first-instance judgment in full just to access the appeal process.

The court referenced Article 323(5) of the Greek Code of Civil Procedure, which encompasses the public policy clause, confirming that the security requirement violated the principle of proportionality. Furthermore, limiting access to the court and undermining judicial protection directly contravened Article 6(1) of the ECHR and Article 20, paragraph 1 of the Greek Constitution.

Consequently, the obligation to deposit an amount of USD 44,397,715.97, which constitutes the awarded sum of the initial judgment (USD 41,248,107.88) plus legal costs (USD 3,149,608.09), was viewed as an untenable financial burden that contradicts the right to judicial protection.

More specifically, the imposition of a security deposit that equaled the judgment amount plus legal fees, with no statutory limits, exceptions, or discretionary reduction possibilities, violated public policy. This requirement substantially infringed upon the appellant’s right to access judicial remedies against an enforceable ruling.

Finally, the court noted that while Greek law allows for provisional enforceability of first-instance judgments under certain conditions, including the possibility of appeal suspension without a guarantee if there is a likelihood of success, such provisions were absent in Panamanian law.