



ICLG

The International Comparative Legal Guide to:

Enforcement of Foreign Judgments 2017

2nd Edition

A practical cross-border insight into the enforcement of foreign judgments

Published by Global Legal Group, with contributions from:

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Published by
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London SE1 3PL, UK
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Email: info@glgroup.co.uk
URL: www.glgroup.co.uk

GLG Cover Design
F&F Studio Design

GLG Cover Image Source
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Printed by
Stephens & George
Print Group
March 2017

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ISBN 978-1-911367-40-6
ISSN 2397-1924

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Austria

Maximilian Raschhofer



Sebastian Lukic



Schönherr Rechtsanwälte GmbH

1 Country Finder

1.1 Please set out the various regimes applicable to recognising and enforcing judgments in your jurisdiction and the names of the countries to which such special regimes apply.

Applicable Law/ Statutory Regime	Relevant Jurisdiction(s)	Corresponding Section Below
Austrian Enforcement Act (<i>Exekutionsordnung</i> , hereinafter “EA”)	All countries to which none of the specific regimes apply	Section 2
Austrian Insolvency Act (<i>Insolvenzordnung</i> , hereinafter “IA”)	All countries to which none of the specific regimes apply	Question 2.6 and section 3
Austrian Act on Non-Contentious Matters (<i>Außerstreitgesetz</i> , “AußerstreitG”)	All countries to which none of the specific regimes apply	Question 2.6 and section 3
Hague Convention on Civil Procedure of 1 March 1954	All countries signatory to the Convention	Question 2.6 and section 3
Convention on the Contract for the International Carriage of Goods by Road of 19 May 1956	All countries signatory to the Convention	Question 2.6 and section 3
Hague Convention concerning the Recognition and Enforcement of Decisions relating to Maintenance Obligations towards Children of 15 April 1958	All countries signatory to the Convention	Question 2.6 and section 3
New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958	All countries signatory to the Convention	Question 2.6 and section 3
Convention concerning International Carriage by Rail of 9 May 1980	All countries signatory to the Convention	Question 2.6 and section 3
Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children of 19 October 1996	All countries signatory to the Convention	Question 2.6 and section 3

Applicable Law/ Statutory Regime	Relevant Jurisdiction(s)	Corresponding Section Below
Hague Convention on the International Protection of Adults of 13 January 2000	All countries signatory to the Convention	Question 2.6 and section 3
Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance of 23 November 2007	All countries signatory to the Convention	Question 2.6 and section 3
Several bilateral treaties on the recognition and enforcement of judgments in civil and commercial matters (largely superseded by EU legislation or Convention on jurisdiction and the enforcement of judgments in civil and commercial matters of 30 October 2007)	All countries signatory to the Convention	Question 2.6 and section 3

2 General Regime

2.1 Absent any applicable special regime, what is the legal framework under which a foreign judgment would be recognised and enforced in your jurisdiction?

In the absence of any specific applicable regime, the recognition and enforcement of foreign executory titles are governed by the Austrian Enforcement Act (“EA”), in particular by sections 403 EA *et seqq.* Section 416 (1) EA expressly stipulates that in case of conflicts of provisions of the EA with provisions of international treaties or European law, the latter shall supersede the conflicting provisions of the EA.

2.2 What requirements (in form and substance) must a foreign judgment satisfy in order to be recognised and enforceable in your jurisdiction?

Pursuant to section 403 EA, foreign legal acts and/or deeds (hereinafter “executory titles”) shall be enforced in Austria after having been declared enforceable.

The terms “legal acts and/or deeds” have to be interpreted widely. They mean any judgment given by a court or tribunal, whatever the judgment may be called, including a decree, preliminary injunction, etc., as long as the executory title is enforceable in the state of origin (i.e. the state in which the executory title was issued). The terms

“legal acts and/or deeds” of course also mean court settlements and public (e.g. notarial) deeds that can be enforced in the state of origin.

The list below provides an overview of basic requirements regarding the declaration of enforceability:

- **Enforceability** in the state of origin: Section 406 EA does not refer to the legal force (*Rechtskraft*) but to the enforceability (*Vollstreckbarkeit*) in the state of origin, meaning that a foreign executory title may also be enforced if it is still subject to an appeal but enforceable in the state of origin. Pursuant to section 407 (3) EA, the party seeking enforcement has to provide a certification of enforceability issued by the foreign court and/or authority.
- **Reciprocity** must be stipulated either in an international treaty or in an Austrian regulation. The express stipulation of reciprocity in an international treaty and/or in an Austrian regulation is an indispensable requirement. However, this general requirement does not apply to executory titles regarding the civil and marital status (*Personenstand*).
- The matter could be brought before the foreign court when applying provisions of Austrian law on the **jurisdiction** of courts (section 407 [1]) EA).
- The **document instituting the proceedings** must have been served to the defendant (section 407 [2]) EA).
- The executory title to be enforced must be produced along with a **certified translation** thereof (Art. 8 of the Federal Constitution Act [B-VG] and section 53 of the Rules of Procedure for the First and Second Instance Courts [GeO]).
- **Absence of any grounds for refusal** of recognition/declaration of enforceability (see question 2.5 below).

2.3 Is there a difference between recognition and enforcement of judgments? If so, what are the legal effects of recognition and enforcement respectively?

Pursuant to section 415 EA, sections 403 EA *et seqq.* have to be applied *mutatis mutandis* to the application for (mere) recognition of a foreign executory title that cannot be enforced. In particular, this provision applies to declaratory judgments (*Feststellungsurteile*) and judgments creating or altering the legal status (*Rechtsgestaltungsurteile*) which do not constitute any enforceable obligation.

2.4 Briefly explain the procedure for recognising and enforcing a foreign judgment in your jurisdiction.

The application for the (mere) declaration of enforceability/recognition has to be filed with the court of the place where the debtor is domiciled. The application does not trigger any court fees. If the application for declaration of enforceability/recognition is combined with an application for enforcement, the application can also be filed with the court having jurisdiction for the enforcement proceedings pursuant to sections 18 and 19 EA. Such application would trigger court fees depending on the amount with respect to which enforcement is sought.

If a judgment contains a measure or an order which is not known in Austria, the court may adapt that measure or order a measure or an order known in Austria which has equivalent effects attached to it and which pursues similar aims and interests (sections 404 *et seqq.* EA).

If both the declaration of enforceability and enforcement are granted by the first instance court simultaneously, the opponent's assets may be seized despite the fact that the declaration of enforceability has not become final and binding due to an appeal filed in the state of origin. However, no assets may be sold or otherwise realised as long as the declaration of enforceability has not become final and binding.

The first instance court must make its decision on declaration of enforceability/recognition in *ex parte* proceedings (section 410 EA). If the documents provided by the applicant are insufficient, the court may grant the opportunity to remedy.

Both parties may file an appeal against the first instance court's decision within a time period of four weeks. The appeal may be filed within a time period of eight weeks in the case that (i) a party's habitual residence is not in Austria, and (ii) the appeal constitutes the party's first opportunity to participate in the proceedings.

The debtor must assert all grounds for a dismissal of the application for recognition/declaration of enforceability simultaneously in the appeal and is precluded from asserting them at a later stage of the proceedings. As the foreign executory title needs only to be enforceable in the state of origin (but not also final and binding, see question 2.2 above), the Austrian court may declare it enforceable although it is still subject to appeal in the state of origin. In such case the Austrian appellate court may stay proceedings until the executory title has become final and binding. It may also order that the party seeking enforcement must provide a security.

A second appeal to the Austrian Supreme Court against the appellate court's decision requires that the question for determination by the Supreme Court concerns an issue of substantive or procedural law, the determination of which is deemed essential with regard to legal unity and security, or the further development of the law. Furthermore, the admissibility of a second appeal depends on the amount in dispute – which must exceed EUR 5,000.00 in any event.

2.5 On what grounds can recognition/enforcement of a judgment be challenged? When can such a challenge be made?

The debtor may challenge the declaration of enforceability/recognition of the executory title if:

- one of the requirements for the declaration of enforceability/recognition (see question 2.2 above) is not met;
- the debtor did not have the opportunity to attend the foreign proceedings and/or arrange for his defence due to procedural irregularities in the foreign proceedings (section 408 [1] EA);
- the declaration of enforceability would lead to the enforcement of an action that is not admissible and/or enforceable under Austrian law (e.g. actions that would constitute a criminal offence – section 408 [2] EA); and
- the recognition or enforcement of the judgment would violate the Austrian public policy (*ordre public* – section 408 [3] EA, also see question 2.8 *et seqq.* below).

2.6 What, if any, is the relevant legal framework applicable to recognising and enforcing foreign judgments relating to specific subject matters?

Under domestic law, some provisions regarding specific matters take precedence over the general provisions of the EA so as to constitute *leges speciales*:

- sections 91a *et seqq.* of the Act on Non-Contentious Matters (“**AußerstreitG**”) regarding foreign executory titles on adoption matters;
- sections 97 *et seqq.* AußerstreitG regarding foreign executory titles on matrimonial matters;
- sections 112 *et seqq.* AußerstreitG regarding foreign executory titles on the attribution, exercise, delegation, restriction or termination of parental responsibility; and
- section 240 (1) of the Austrian Insolvency Code (“**IA**”) which is the legal framework applicable to the effects of the opening

of foreign insolvency proceedings and the decisions rendered in the course of such foreign insolvency proceedings.

Most of the multilateral conventions apply to the recognition and enforcement of foreign executory titles issued in family law matters:

- The Hague Convention concerning the Recognition and Enforcement of Decisions relating to Maintenance Obligations towards Children of 15 April 1958.
- The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children of 19 October 1996 (hereinafter the “**Hague Convention 1996**”).
- The Hague Convention on the International Protection of Adults of 13 January 2000 (hereinafter the “**Hague Convention 2000**”).
- The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance of 23 November 2007 (hereinafter the “**Hague Convention 2007**”).

The Hague Convention on Civil Procedure of 1 March 1954 (hereinafter the “**Hague Convention on Civil Procedure**”) is limited to the declaration of enforceability of order for costs and expenses. Pursuant to Article 19 of The Hague Convention on Civil Procedure, order for costs and expenses shall be rendered enforceable without a hearing, but subject to subsequent appeal by the losing party in accordance with the legislation of the state where enforcement is sought.

Article 31 (3) of the Convention on the Contract for the International Carriage of Goods by Road of 19 May 1956 (hereinafter “**CMR**”) rules on the enforceability of judgments issued in legal proceedings arising out of carriage under the CMR.

Article 12 (1) of the Convention concerning International Carriage by Rail of 9 May 1980 (hereinafter “**COTIF**”) rules on the enforceability of judgments issued by the competent court or tribunal pursuant to the provisions of the COTIF.

As regards the recognition and enforcement of arbitral awards, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (hereinafter the “**NYC**”) and the European Convention on International Commercial Arbitration 1961 apply.

Most of the bilateral treaties are superseded either by EU legislation or multilateral treaties such as the Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

2.7 What is your court’s approach to recognition and enforcement of a foreign judgment when there is: (a) a conflicting local judgment between the parties relating to the same issue; or (b) local proceedings pending between the parties?

Pursuant to section 91a (2) AußerstreitG, a foreign executory title on adoption matters may not be recognised if the foreign executory title is inconsistent with an Austrian judgment issued prior to the foreign judgment.

Equally, pursuant to section 97 (3) AußerstreitG, a foreign executory title on matrimonial matters may not be recognised if the foreign executory title is inconsistent with an Austrian judgment issued prior to the foreign judgment.

Pursuant to section 113 (3) AußerstreitG, a foreign executory title regarding parental responsibility must not be recognised/declared enforceable if it is inconsistent with an Austrian judgment issued later than the foreign judgment.

The EA contains neither any provisions similar to the above nor any provisions similar to Art. 45 of European Regulation 1215/2012/EU on jurisdiction and the recognition and enforcement of judgments.

In particular, the conflict between a foreign executory title and an Austrian judgment or proceedings pending in Austria is not listed as one of the grounds for refusal in section 408 EA (see question 2.5 above).

2.8 What is your court’s approach to recognition and enforcement of a foreign judgment when there is a conflicting local law or prior judgment on the same or a similar issue, but between different parties?

An inconsistency with Austrian statutory law and/or Austrian judgments does not constitute a ground for refusal of the recognition/declaration of enforceability as long as it does not violate Austrian public policy (*ordre public*). Austrian public policy consists of the elementary principles of the Austrian legal system, the violation of which would be intolerable from an Austrian perspective.

2.9 What is your court’s approach to recognition and enforcement of a foreign judgment that purports to apply the law of your country?

This would not constitute any ground for refusal as long as the executory title does not violate Austrian public policy (see questions 2.8 and 2.5 above).

2.10 Are there any differences in the rules and procedure of recognition and enforcement between the various states/regions/provinces in your country? Please explain.

Considering that all relevant provisions, being federal, apply to all nine federal provinces, there are no differences in the rules and procedure of recognition and enforcement between these provinces.

2.11 What is the relevant limitation period to recognise and enforce a foreign judgment?

There is no limitation period for the declaration of enforceability/recognition. However, claims arising from a judgment expire after 30 years as of the date on which the judgment became final and binding. Periodical claims (e.g. claims for maintenance) expire after three years (RGI 105/1858).

3 Special Enforcement Regimes Applicable to Judgments from Certain Countries

3.1 With reference to each of the specific regimes set out in question 1.1, what requirements (in form and substance) must the judgment satisfy in order to be recognised and enforceable under the respective regime?

Pursuant to section 91a (1) AußerStreitG, a foreign executory title on adoption matters shall be recognised if the foreign executory title (i) entered into legal force, and (ii) if no ground for refusal applies.

Equally, pursuant to section 97 (1) AußerStreitG, a foreign executory title on matrimonial matters (such as divorce or the annulment of a marriage) shall be recognised if the foreign executory title (i) entered into legal force, and (ii) no ground for refusal applies.

Pursuant to section 112 (2) AußerStreitG, the declaration of enforceability of an executory title on the attribution, exercise, delegation, restriction or termination of parental responsibility

requires that (i) the foreign executory title is enforceable in the state of origin, and (ii) that no ground for refusal applies.

Section 240 (1) IA provides that the effects of the opening of foreign insolvency proceedings and the decisions rendered in the course of such foreign insolvency proceedings shall be recognised, if (i) the centre of main interests is situated in the foreign state, and (ii) the main features of the insolvency proceedings are comparable to insolvency proceedings under Austrian law and, in particular, Austrian creditors are treated in the same way as nationals of the state where the insolvency proceedings have been opened.

Article 20 of The Hague Convention 2007 stipulates that the executory title must satisfy additional substantive requirements in order to be recognised and enforced (e.g. that the respondent was habitually resident in the state of origin at the time proceedings were instituted).

3.2 With reference to each of the specific regimes set out in question 1.1, does the regime specify a difference between recognition and enforcement? If so, what is the difference between the legal effect of recognition and enforcement?

The bilateral and multilateral conventions set out in question 1.1 distinguish *expressis verbis* between recognition and enforcement (see, e.g., Article 23 *et seqq.* of The Hague Convention 1996, or Article 23 *et seqq.* of The Hague Convention 2007). Equally, Article III of the NYC distinguishes between recognition and enforcement. However, the terms “recognition” and “enforcement” have the same legal meaning as under domestic law.

Please see question 2.3 as regards these terms under the EA.

3.3 With reference to each of the specific regimes set out in question 1.1, briefly explain the procedure for recognising and enforcing a foreign judgment.

Section 91b AußerstreitG regarding adoption matters and section 98 AußerstreitG regarding matrimonial matters provide for certain procedural particularities for the recognition of foreign executory titles:

- the application for recognition of a foreign executory title must be accompanied by (i) a copy of the foreign executory title, and (ii) proof that the executory title entered into legal force. Additionally, if the opponent did not appear in the foreign procedure, a proof of the document instituting the proceedings or any other document must be provided, which demonstrates the opponent’s consent with the foreign executory title; and
- any appeal must be filed within a time period of one month. The appeal may be filed within a time period of two months in case that (i) a party’s habitual residence is not in Austria, and (ii) the appeal constitutes the party’s first opportunity to participate in the proceedings.

Section 114 AußerstreitG, regarding the attribution, exercise, delegation, restriction or termination of parental responsibility, also provides for certain procedural particularities for the declaration of enforceability of foreign executory titles:

- The application for declaration of enforceability of a foreign executory title must be accompanied by (i) a copy of the foreign executory title, and (ii) proof that the foreign executory title was served to the opponent and is enforceable in the state of origin. Additionally, if the opponent did not appear in the foreign procedure, a proof of the document instituting the proceedings or any other document must be provided that demonstrates the opponent’s consent with the foreign executory title.

- The procedure on the declaration of enforceability may be stayed if the foreign executory title did not enter into legal force. In this regard, the competent civil court may also determine a time period for an appeal against the foreign executory title in the state of origin.
- Any appeal must be filed within a time period of one month. The appeal must be filed within a time period of two months in case that (i) the opponent’s habitual residence is not in Austria, and (ii) the appeal constitutes the opponent’s first opportunity to participate in the proceedings.
- There is no reimbursement of procedural costs in this procedure.

The multilateral conventions set out in question 1.1 provide, as a general rule, that the procedure for recognition or enforcement shall be governed by the law of the enforcing state, unless the respective convention provides otherwise (see, e.g., Articles 24 and 28 of The Hague Convention 1996, or Articles 23 and 27 of The Hague Convention 2000).

As regards the procedure for the recognition and enforcement Article 23 (1) of The Hague Convention 2007 also refers to the law of the enforcing state. However, Article 23 (2)–(11) of The Hague Convention 2007 provides for additional procedural particularities (e.g. the declaration of enforceability may only be refused if the executory title is manifestly incompatible with the public policy of the enforcing state, or any appeal against the declaration of enforceability must be filed within a period of 30 days; please see question 2.4 above for the procedure for recognising and enforcing a foreign judgment). Article 24 of The Hague Convention 2007 also provides for an alternative procedure for recognition and enforcement. However, this alternative procedure does not apply in Austria.

Article III of the NYC also stipulates that arbitral awards shall be recognised and enforced in accordance with the rules of procedure of the enforcing state. Article IV (1) of the NYC provides that the party applying for recognition and enforcement of an arbitral award shall supply (i) a duly authenticated original award or a duly certified copy thereof, and (ii) the original arbitration agreement or a duly certified copy thereof. In this regard, the Austrian Supreme Court reconfirmed its previous finding that the formal requirements of Article IV (1) (a) NYC (authenticated original award or a duly certified copy thereof) are met, *inter alia*, if the party applying for recognition and enforcement provides the enforcement court with a copy of the original award duly certified by an authorised representative of the arbitral institution under the auspices of which the respective arbitral proceedings had been administered.

Please see question 2.4 above as regards the general procedure for recognising and enforcing a foreign executory title.

3.4 With reference to each of the specific regimes set out in question 1.1, on what grounds can recognition/enforcement of a judgment be challenged under the special regime? When can such a challenge be made?

Section 91a (2) and section 97 (3) AußerstreitG provide for particular grounds for refusal of recognition. Such grounds for refusal constitute, *inter alia*, (i) manifest incompatibility with public policy, or (ii) foreign executory title conflicting with Austrian judgments. Any appeal must be filed within a time period of one month pursuant to section 91b (4) and section 98 (4) AußerstreitG (please see question 3.3 above).

Also, section 113 (3) AußerstreitG provides for particular grounds for refusal of the declaration of enforceability, such as the conflict of a foreign executory title with an Austrian judgment issued later than the foreign executory title. Any appeal must be filed within a time period of one month pursuant to section 114 (3) AußerstreitG (please see question 3.3 above).

Pursuant to section 240 (2) IA, the effects of the opening of foreign insolvency proceedings and the decisions rendered in the course of such foreign insolvency proceedings will not be recognised in Austria if (i) the insolvency proceedings have already been opened in Austria or interim measures have already been issued, or (ii) the recognition is evidently contrary to public policy.

The multilateral conventions also establish particular grounds for refusal of the declaration of enforceability/recognition and enforcement (see e.g. Article 22 of The Hague Convention 2000). Such grounds for refusal constitute, *inter alia*, (i) proceedings between the same parties with the same purpose that are pending before an authority of the enforcing state, or (ii) manifest incompatibility with the public policy of the enforcing state. However, the multilateral conventions expressly stipulate that the procedure for recognition and enforcement shall not imply a review of the merits of the executory title (prohibition of *révision au fond*; see, e.g., Article 26 of The Hague Convention 2000). Article 23 (6) of The Hague Convention 2007 provides that any appeal must be filed within a period of 30 days.

Article V (1) and (2) of the NYC stipulates the grounds for refusal of recognition and enforcement of arbitral awards. The recognition and enforcement of arbitral awards may be refused if, *inter alia*, (i) the arbitration agreement is not valid, (ii) the subject matter in dispute was not capable of settlement by arbitration, or (iii) the recognition and enforcement would be contrary to the public policy of the enforcing state. Article V (1) of the NYC stipulates grounds for refusal of recognition that have to be pleaded by the party resisting the recognition and enforcement. The grounds provided for in Article V (2) NYC have to be considered by the competent court *ex officio*. Under the NYC, the principle of prohibition of *révision au fond* also applies.

4 Enforcement

4.1 Once a foreign judgment is recognised and enforced, what are the general methods of enforcement available to a judgment creditor?

Executory titles expressed in monetary terms can be enforced on the debtor's following types of moveable assets:

- the debtor's moveables (*Fahrmittel* – sections 249–289 EA);
- the debtor's receivables against third party debtors (*Forderungsexekution* – sections 290–324 EA; if the debtor is a natural person, the creditor may seize the debtor's salary claims even if the debtor's employer is unknown; in all other cases the enforcement on claims against third party debtors is only admissible if the creditor is able to name the third party debtor);
- the debtor's claims for delivery against third party debtors (*Exekution auf Ansprüche auf Herausgabe und Leistung körperlicher Sachen* – sections 325–327 EA); and
- enforcement in respect of other pecuniary rights (*Exekution auf andere Vermögensrechte* – sections 330–345 EA; e.g. enforcement by realisation of the debtor's claim to occupy and/or use leased property).

Monetary claims can also be enforced on immoveable assets by:

- compulsory creation of a mortgage (*Zwangsvolle Pfandrechtsbegründung* – sections 87–96 EA – this type of enforcement will not satisfy the creditor but the creditor's claim is secured by means of mortgage registration with the land registry);

- compulsory administration (*Zwangsverwaltung* – sections 97–132 EA); or
- compulsory sale by auction (*Zwangsversteigerung* – sections 133–239 EA).

There are a number of different proceedings available for executory titles directed at claims for specific performance. The most important ones are enforcement of obligations to act or to refrain from particular actions as well as the obligation to tolerate something or someone doing something. Such obligations can be enforced either by substitute performance or by imposing penalties for contempt.

5 Other Matters

5.1 Have there been any noteworthy recent (in the last 12 months) legal developments in your jurisdiction relevant to the recognition and enforcement of foreign judgments? Please provide a brief description.

Most recently, the Federal Law on the amendment to the EA (*Exekutionsordnungs-Novelle 2016*), Federal Law Gazette I no. 100/2016, formally relocated the relevant provisions on the recognition and enforcement of foreign judgments, but did not change the substantive rules on the declaration of enforceability/recognition and enforcement of foreign judgments. Pursuant to section 447(2) EA, the respective amendment entered into force on 2 January 2017. As a consequence of this most recent amendment to the EA, the declaration of enforceability, recognition and enforcement of foreign judgments is now governed by sections 403 *et seq.* EA and not by sections 79 *et seq.* EA as was previously the case.

In general, the amendment to the EA serves the purpose of implementing rules that accompany European Regulation 655/2014/EU, which establishes an account preservation order procedure and to introduce a systematic and coherent chapter on international enforcement law.

5.2 Are there any particular tips you would give, or critical issues that you would flag, to clients seeking to recognise and enforce a foreign judgment in your jurisdiction?

Apart from the land registry and the commercial register, there are no further publicly available registers listing assets of a particular person.

We would recommend representation by an Austrian attorney in any event in order to elaborate a well-considered enforcement strategy.

Furthermore, we believe that it can be useful to get in touch with the competent judge before submitting the application for a declaration of enforceability/recognition. In particular, this may be useful in instances where it is not clear if the present documents, translations and/or certifications will suffice.

We recommend providing only translations by translators that are registered in the official Austrian list of sworn translators in order to avoid any concerns regarding the translator's capacity to issue a certification of his/her translation.

The application for enforcement (but not the application for declaration of enforceability without simultaneously seeking enforcement – see question 2.4 above) triggers court fees depending on the amount to be enforced. If it is not clear whether the debt can be collected due to the uncertain financial situation of the debtor, it can make sense to enforce only a part of the claim in order to keep the court fees as low as possible.

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