



ICLG

The International Comparative Legal Guide to:

Enforcement of Foreign Judgments 2016

1st Edition

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

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Uzbekistan

Azizbek Akhmadjonov



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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 |
|---|--|--------------------------------|
| Treaty on Adjudication of Disputes Arising out of Commercial Activities dated March 20, 1992 (Kiev Convention) | CIS countries, particularly Russia, Belarus, Ukraine, Kyrgyzstan, Kazakhstan, Tajikistan, Turkmenistan and Armenia | Section 3 |
| Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases dated January 22, 1993 (Minsk Convention) | CIS countries, particularly Belarus, Kazakhstan, Russia, Tajikistan, Armenia, Ukraine, Kyrgyzstan, Moldova, Azerbaijan, Turkmenistan and Georgia | Section 3 |
| International Bilateral Treaties on Legal Assistance with countries of former USSR | Latvia (May 23, 1996), Georgia (May 28, 1996), Turkmenistan (November 27, 1996), Kyrgyzstan (December 24, 1996), Lithuania (February 20, 1997), Kazakhstan (June 2, 1997), Azerbaijan (June 18, 1997), Ukraine (February 19, 1998) | Section 3 |
| International Bilateral Treaties on Legal Assistance with other countries | Turkey (June 23, 1994), People's Republic of China (December 11, 1997), Czech Republic (January 18, 2002, Bulgaria (November 24, 2003) | 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?**

Uzbek legislation does not provide for a general legal framework on recognition of foreign judgments and arbitration awards. In the absence of specific multilateral or bilateral international treaties

providing for recognition and enforcement of foreign judgments and arbitration awards, such judgments and awards are not recognised in Uzbekistan.

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

This is not applicable in Uzbekistan; see question 2.1.

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

This is not applicable in Uzbekistan; see question 2.1.

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

This is not applicable in Uzbekistan; see question 2.1.

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

This is not applicable in Uzbekistan; see question 2.1.

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

This is not applicable in Uzbekistan; see question 2.1.

- 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?**

This is not applicable in Uzbekistan; see question 2.1.

- 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?**

This is not applicable in Uzbekistan; see question 2.1.

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 is not applicable in Uzbekistan; see question 2.1.

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.

This is not applicable in Uzbekistan; see question 2.1.

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

This is not applicable in Uzbekistan; see question 2.1.

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?

1. Kiev Convention

The Kiev Convention is applicable to disputes arising from commercial relations, whether contractual or not, between business entities as well as relations between business entities, the state and other bodies. The Kiev Convention defines business entities as entities having a separate legal entity of any legal form, their associations as well as natural persons undertaking entrepreneurial activities.

The Kiev Convention covers recognition and enforcement of only the judgments of competent courts of the contracting states. Competent courts are defined as state courts of the contracting states that have authority to try commercial disputes provided for in the Kiev Convention. Recognition and enforcement of interim/interlocutory orders are not covered by the Kiev Convention.

Pursuant to article 7 of the Kiev Convention, recognition of foreign court judgments is done automatically without the need to undergo a special procedure for recognition of the foreign court judgment in a court of the state where enforcement is sought. An interested party may directly apply to the competent state body of the other contracting state responsible for enforcement of court judgments ("court enforcement officer") with a request to enforce the foreign court judgment.

Pursuant to article 8 of the Kiev Convention, enforcement of a foreign court judgment may be refused by the claim of the party against whom the enforcement is sought to the competent Uzbek court only if:

- (i) judgment is not final, i.e. has not entered into legal force in the territory of the contracting state where the judgment was made;
- (ii) there is a final and valid judgment of the competent Uzbek court over the same dispute between the same parties;
- (iii) there is a recognised judgment by a competent court of another contracting state or a third state over the same dispute between the same parties;
- (iv) judgment was made by a court without competence;
- (v) the other party was not properly served; and
- (vi) the three-year limitation period for enforcement of a judgment has expired.

2. Minsk Convention

The Minsk Convention is applicable to court judgments on compensation of damages under criminal law cases, to court judgments over civil law and family law disputes and to decisions of other state bodies competent to make decisions on civil law and family law disputes. Recognition and enforcement of interim/interlocutory orders are not covered by the Minsk Convention.

The Minsk Convention provides for a procedure whereby a court decision or a decision of the competent state body needs to be recognised in the state where enforcement is sought, and as the result of due recognition, the court of the state where enforcement is sought issues an enforcement order that is mandatory for enforcement in the territory of that state.

Pursuant to article 55 of the Minsk Convention, recognition and enforcement of a foreign court judgment may be refused by the competent Uzbek court if:

- (i) judgment did not enter into legal force or is not subject to enforcement, unless the judgment is enforced prior to it entering into legal force;
- (ii) the defendant did not participate in the hearing due to not being properly served;
- (iii) there is a recognised judgment of the competent Uzbek court or a third state over the same dispute between the same parties, or the Uzbek state body has commenced proceedings on the case;
- (iv) pursuant to the provisions of the Minsk Convention, or, in case not provided by the Minsk Convention, under the legislation of Uzbekistan, the dispute falls under the exclusive jurisdiction of the state bodies of Uzbekistan;
- (v) the document confirming the agreement of the parties over the competent jurisdiction is absent; and
- (vi) the limitation period for mandatory enforcement of the judgment set in Uzbekistan has expired.

3. Bilateral Treaties with Former USSR States

The bilateral treaties on legal assistance that Uzbekistan entered into with former USSR states are very similar to the Minsk Convention. Under these treaties, court judgments over civil law and family law disputes as well as court judgments on compensation of damages under criminal law cases can be recognised and enforced in Uzbekistan.

The bilateral treaty with Latvia also includes court judgments over employment law disputes.

Recognition and enforcement of interim/interlocutory orders are not covered by the bilateral treaties.

Like with the Minsk Convention, under the bilateral treaties with former USSR states, court judgments need to be recognised in order to be enforced in the territory of Uzbekistan.

Recognition and enforcement of a foreign court judgment may be refused by the court if:

- (i) judgment did not enter into legal force or is not subject to enforcement, unless the judgment is enforced prior to it entering into legal force;
- (ii) the defendant did not participate in the hearing due to not being properly served;
- (iii) there is a recognised judgment of the competent Uzbek court or a third state over the same dispute between the same parties, or the state body of Uzbekistan has commenced proceedings on the case;
- (iv) pursuant to the provisions of the applicable bilateral treaty, or, in case not provided by the bilateral treaty, under the legislation of Uzbekistan, the dispute falls under the exclusive jurisdiction of the Uzbek state bodies;

- (v) the document confirming the agreement of the parties over the competent jurisdiction is absent; and
- (vi) the limitation period for mandatory enforcement of the judgment set in Uzbekistan has expired.

4. International Bilateral Treaties with Other States

The bilateral treaty with Bulgaria is applicable to: court decisions on civil law disputes, including settlement agreements approved by the court; and criminal court decisions as part of civil law claims.

The bilateral treaty with the Czech Republic is applicable to: court judgments on compensation of damages under criminal law cases; court judgments over civil law disputes, including settlement agreements approved by the court; arbitration court judgments; and court judgment as to court costs recovery.

The bilateral treaty with PRC is applicable to: court judgments on compensation of damages under criminal law cases; court judgments over civil law disputes, including settlement agreements approved by the court; and arbitration court judgments. Interim orders of such courts can also be recognised and enforced under the bilateral treaty with PRC.

The bilateral treaty with Turkey is applicable to: court judgments regarding civil disputes; property claims and commercial disputes; as well as court judgments on compensation of damages under criminal law cases. Arbitration awards in civil and commercial disputes also fall under the bilateral treaty with Turkey.

Like with the Minsk Convention, court judgments under the international bilateral treaties with other states need to be recognised in order to be enforced in the territory of Uzbekistan.

Recognition and enforcement of a foreign court judgment under the bilateral treaties with Bulgaria and the Czech Republic may be refused by the court on the same grounds as in the Minsk Convention.

In addition to the grounds for refusal of recognition and enforcement of a foreign court judgment that are provided for in the Minsk Convention, the bilateral treaty with PRC provides that the judgment may also be refused recognition and enforcement in case it prejudices the sovereignty, public safety and public order of the state where enforcement is sought.

Recognition and enforcement of a foreign court judgment under the bilateral treaty with Turkey may be refused by the Uzbek court, in case of the following:

- (i) judgment has not been made in the territory of Turkey or did not enter into legal force or is not subject to enforcement;
- (ii) under the laws of Uzbekistan, Turkey does not have the authority to make such a decision;
- (iii) the defendant was not duly served to participate at the court hearing;
- (iv) the court judgment was made without conducting a hearing where the parties had a right to participate either directly or through representatives;
- (v) there is a recognised judgment of the competent court or an arbitration in Uzbekistan over the same dispute between the same parties;
- (vi) the state body of Uzbekistan has commenced proceedings on the case;
- (vii) under the laws of Uzbekistan, the court of Turkey (a) should have applied the laws of Uzbekistan, but failed to do so, or (b) instead of applying the laws of Uzbekistan, the Turkish court applied the laws of Turkey, which are incompatible with the laws of Uzbekistan; and
- (viii) the judgment is against the public order of Uzbekistan.

In addition to the requirements listed above, arbitration awards under the bilateral treaty with Turkey shall also comply with the following requirements in order to be recognised and enforced in Uzbekistan:

- (i) the arbitration award is issued over a dispute that can be subject to arbitration;

- (ii) the arbitration award was made over a dispute that is covered in the arbitration agreement agreed between the parties to the dispute;
- (iii) the composition of the arbitration tribunal is in accordance with the arbitration agreement;
- (iv) the parties are duly notified on appointment of the arbitrator or the arbitration hearing; and
- (v) the arbitration award is considered as final in the contracting state where it was issued.

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?

1. Kiev Convention

The Kiev Convention differentiates between recognition and enforcement of foreign court judgments. As stated above, the Kiev Convention does not distinguish recognition as a separate stage necessary for enforcement of the foreign court judgment. Such recognition is done automatically. Enforcement of foreign court judgments is done directly by a court enforcement officer, without involvement of the competent courts of the state where enforcement is sought.

2. Minsk Convention

The Minsk Convention does not differentiate between recognition and enforcement. These are two elements of the same concept. A court decision of a contracting state is submitted to the competent Uzbek court for recognition and enforcement, which is done by issuance of an enforcement order by such competent court.

3. Bilateral Treaties with Former USSR States

As with the Minsk Convention, recognition and enforcement are the two elements of the same concept.

4. International Bilateral Treaties with Other States

As with the Minsk Convention, recognition and enforcement are two elements of the same concept.

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.

1. Kiev Convention

To enforce a foreign court judgment, an interested party shall apply to a court enforcement officer with a regular application. The application shall include:

- (i) a duly certified copy of the foreign court judgment;
- (ii) an official document confirming that the court judgment entered into legal force, unless this is clear from the content of the court judgment itself;
- (iii) proof of proper serving of the other party; and
- (iv) an enforcement order from the competent state body of the state where judgment was made.

The documents shall be provided in the language of the state where the decision is made or in Russian. The court enforcement officer shall commence the enforcement procedure in accordance with Uzbek law.

2. Minsk Convention

To enforce the foreign court judgment, an interested party shall apply to the competent Uzbek court. Alternatively, such application can be submitted through the court that made the judgment, which, in turn, will send the application to the competent Uzbek court. The application shall be submitted to the court at the place of residence

or location of the debtor and, in case its residency or location is not known, at the place where the property of the debtor is located.

The application shall include:

- (i) the foreign court judgment/decision of the competent foreign state body or its duly certified copy;
- (ii) an official document confirming that the court judgment (state body decision) entered into legal force, unless this is clear from the content of the court judgment (state body decision) itself, or that the court judgment (state body decision) is enforced prior to entering into legal force;
- (iii) a document confirming that the parties that did not attend (participate) in the proceedings were duly serviced and, in case of its procedural incapacity, that it was duly represented;
- (iv) a document confirming partial performance of the judgment at the moment of its passing over; and
- (v) in case of a contractually agreed jurisdiction, a document confirming the parties' agreement in this regard.

In practice, Uzbek courts also request the following additional documents:

- (i) a document confirming signatory authority of a person submitting an application on behalf of the applicant to the court; and
- (ii) a document confirming that the debtor is provided with the copy of the application together with all the attached documents.

The documents shall be provided in the Uzbek or Russian languages.

A decision on recognition and enforcement of a foreign court judgment (state body decision) is made by hearing. All the relevant parties shall be duly informed on the date and place of such hearing.

A decision on recognition and enforcement of a foreign court judgment (state body decision) can be appealed under the appellate procedure.

3. Bilateral Treaties with Former USSR States

The treaties with Latvia, Lithuania and Georgia provide that application for recognition and enforcement shall be submitted to the court that made the judgment, which will, in turn, transfer this application to the Uzbek court where enforcement is sought.

The treaty with Azerbaijan provides that application for recognition and enforcement shall be submitted to the court where the judgment was made, which will, in turn, transfer this application to the Uzbek court. However, if the applicant has its residency in Uzbekistan it may submit the application to the Uzbek court.

The treaties with Turkmenistan, Kyrgyzstan, Kazakhstan, and Ukraine provide an option for the applicant to submit its application either to the competent Uzbek court or to the court that made the judgment, the enforcement of which is sought in Uzbekistan.

Otherwise, the procedure is the same as in the Minsk Convention.

4. International Bilateral Treaties with Other States

The bilateral treaties with Bulgaria and the Czech Republic provide an option for the applicant to submit its application either to the competent Uzbek court or to the court that made the judgment, the enforcement of which is sought in Uzbekistan. Otherwise, the procedure is the same as is provided in the Minsk Convention.

The Treaty with PRC provides that application for recognition and enforcement shall be submitted to the court where the judgment was made, which will, in turn, transfer this application to the Uzbek court. However, if the applicant has its residency in Uzbekistan it may submit the application directly to the Uzbek court.

Otherwise, the procedure is the same as in the Minsk Convention.

With regards to the bilateral treaty with Turkey, the application for recognition and enforcement shall be submitted to the Ministry of Justice of Uzbekistan. The application shall include:

- (i) a notary-certified copy of the court judgment, as well as the certificate confirming that the judgment has entered into legal force, if this is not clear from the judgment itself;

- (ii) the certificate confirming that the party against which the judgment was made was duly served to the court hearing and had a chance to be represented by the representative; and
- (iii) in relation to the arbitration awards, the duly certified translation of the arbitration agreement.

All documents under the bilateral treaty with Turkey shall be provided in the Uzbek, English or French languages.

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?

1. Kiev Convention

Other than the formal grounds for refusal of enforcement of the foreign court judgments listed in article 8 of the Kiev Convention, which is the exhaustive list, there are no substantive grounds for refusal of enforcement.

2. Minsk Convention

Other than the formal grounds for refusal of enforcement of the foreign court judgments listed in article 55 of the Minsk Convention, which is the exhaustive list, there are no substantive grounds for refusal of recognition and enforcement.

3. Bilateral Treaties with Former USSR States

Other than the formal grounds for refusal of enforcement of the foreign court judgments provided in question 3.1 above, there are no substantive grounds for refusal of recognition and enforcement.

4. International Treaties with Other States

Other than the formal grounds for refusal of enforcement of the foreign court judgments provided in question 3.1 above, there are no substantive grounds for refusal of recognition and enforcement.

4 Enforcement

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

Uzbek law provides for the following methods of enforcement:

- (i) seizure of monetary assets and other property of the debtor;
- (ii) seizure of monetary assets and foreclosure of other property of the debtor with third parties;
- (iii) foreclosure of claim rights of the debtor to third parties;
- (iv) foreclosure of separate property rights of the debtor;
- (v) seizure of salary, stipend, pension payments and other incomes of the debtor;
- (vi) seizure of specific property of the debtor listed in the enforcement documents and their transfer to the creditor; and
- (vii) other measures that are in compliance with Uzbek law.

The enforcement officer shall seize and foreclose the assets of the debtor in the following order of priority:

- firstly – assets that are not directly involved in production activities (securities, monetary assets, foreign currency assets, light vehicles, etc.);
- secondly – ready products (goods) as well as other material assets that are not directly used in production activities; and
- thirdly – immovable assets as well as raw materials, equipment, machinery and other fixed assets directly used in production. For state assets, at this stage the enforcement officer shall inform the State Committee on Management of the State Property on the seized assets of the debtor.

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 or awards? Please provide a brief description.

No. There have been no recent developments relevant to recognition and enforcement.

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 or award in your jurisdiction?

On May 24, 2013, the Plenum of the Higher Economic Court of Uzbekistan issued its decree providing an overview of recognition and enforcement of foreign court judgments and international arbitration

awards. Although the Higher Economic Court of Uzbekistan in its decree refers to the Kiev Convention on several occasions, it does not cover the cases when foreign court judgments are enforced in Uzbekistan directly without the need for their prior recognition, as provided in the Kiev Convention. In this regard, the procedures of the Kiev Convention as to direct enforcement of foreign court judgments are not applicable in practice.

It should also be noted that in case Uzbekistan and the state with which Uzbekistan concluded a bilateral treaty are both parties to multilateral treaty (Kiev, Minsk and New York Conventions), the Uzbek court shall apply provisions of the bilateral treaties, and in case such bilateral treaties do not regulate certain relations, the parties shall apply the relevant multilateral treaties.

On a separate note, it should be noted that once the competent court makes a positive decision on recognition and enforcement of the foreign court judgment (state body decision), it shall immediately issue an enforcement order. Since under Uzbek law an enforcement order can be provided for enforcement within three years from the date of entrance of a decision into legal force, it is important for the enforcement order to include a date when the foreign court judgment (state body decision) entered into legal force.



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Litigation and dispute resolution is one of the areas where Azizbek has invaluable experience and knowledge. He has successfully represented clients, plaintiffs and defendants alike, in numerous disputes both in Uzbek courts of all levels and arbitration institutions.

Azizbek's litigation practice also covers enforcement of court orders, debt collection and remittance of collected proceeds to foreign clients.

Azizbek regularly represents foreign investors in the liquidation and bankruptcy proceedings of their Uzbek subsidiaries. He provides a full range of legal services in each stage of the liquidations and bankruptcy, starting from assistance in selecting external management to recovery by the foreign investors of their assets remaining in Uzbekistan.



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In the competition law sphere, Maxim focuses on obtaining regulatory approvals, and advises on business restructuring and market strategies for their compliance with competition law requirements. Mr. Dogonkin regularly participates in antitrust investigation hearings in cases concerning abuse of dominance, deceptive practices, unfair competition and others.

Mr. Maxim Dogonkin frequently advises clients on corporate governance policies and compliance matters, particularly regarding anti-bribery, money laundering and data protection.

KOSTA LEGAL

Kosta Legal is a results-oriented law firm offering a wide range of legal services to both new entrants and well-established businesses in Uzbekistan with particular expertise to offer legal advice and services to foreign investors.

We help our clients navigate through the constantly evolving Uzbek legal environment which is characterised by frequent changes and frequent ambiguity in the actual application of legal norms, which may lead to serious challenges, particularly for foreign investors. We at Kosta Legal are eminently qualified to address these challenges of operating a business in Uzbekistan.

Our law firm has the necessary legal expertise, resources and flexibility to come out on top of a matter of any complexity. Our particular interests are in oil and gas, energy, banking and finance, corporate law and compliance, real estate and construction.

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