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ENFORCEMENT OF EC AND EFTA MONETARY JUDGMENTS IN HUNGARY

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In this article, we address the issue of how a foreign monetary judgment delivered in another Member State of the EC and an EFTA Member State, respectively, can be enforced in Hungary.

Enforcement of EC Monetary Judgments

The main legal source governing this issue is *Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement in civil and commercial matters* (the "Brussels I Regulation"). Based on the Brussels I Regulation and applicable Hungarian laws, a party seeking enforcement of an EC judgment in Hungary is required to submit a so-called petition for enforcement to the competent Hungarian court along with a certified copy of the foreign judgment, a certified Hungarian translation of the foreign judgment, a certificate of enforceability issued by the foreign court delivering the judgment, a certified Hungarian translation of the certificate of enforceability, a document proving that the foreign judgment was duly delivered to the defendant and a power of attorney granted to a delivery agent in Hungary with whom the Hungarian court can communicate.

The actual enforcement proceeding is subject to the national laws of Hungary governing judicial enforcement (*Act no LIII of 1994 on Judicial Enforcement*). Following due submission of the aforementioned documents, the court will decide on the issuance of a so-called "*confirmation of enforceability*" that certifies that the foreign decision can be executed under Hungarian law the same way as a decision rendered by a Hungarian court. Following the issuance of the confirmation of enforceability, a "*certificate of execution*" may be issued based on which document the actual enforcement procedure can be commenced.

It is worth noting that one Member State of the EC, Denmark, opted out of being bound by the Brussels I Regulation. On 19 October 2005, the EC and Denmark concluded an agreement on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the "Agreement"), pursuant to which Agreement, the Brussels I Regulation as last amended applies to Denmark as well. The Agreement entered into force on 1 July 2007.

One has to emphasize that according to Article 3 of the Agreement, Denmark will not take part in the adoption of amendments to the Brussels I Regulation as last amended and no such amendments will be binding upon or applicable to Denmark. If the EC adopts an amendment to the Brussels I Regulation in the future, Denmark will be required to notify the Commission of its decision whether or not it wishes to implement such an amendment. If, for example, Denmark indicates that it does not wish to implement the amendment or does not make a

notification within 30 days as from the adoption of the amendment, the Agreement is to be considered terminated unless the EC and Denmark decide otherwise within 90 days.

Enforcement of EFTA Monetary Judgments

The *Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters* (the "Lugano Convention") was concluded in 1988 by the Member States of the EC and certain EFTA member states (namely, Switzerland, Norway and Iceland). The Lugano Convention governs the enforcement within the EC of judgments delivered in any of the afore-mentioned EFTA Member States and also the enforcement within said EFTA Member States of the judgments delivered in an EC Member State. Given that the Lugano Convention is not applicable to Hungary, the enforcement of a judgment delivered by a Swiss court is currently subject to the rules of the *Act no 13 of 1979 on Private International Law*. Based on this Act, if, for example, no reciprocity exists between Hungary and the country the judgment of which is sought to be enforced in Hungary, the foreign judgment may, as a rule, not be recognized and is consequently unenforceable in Hungary.

On 30 October 2007, the EC and certain EFTA states (Switzerland, Norway and Iceland) concluded a new convention (the "New Lugano Convention") on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The New Lugano Convention was signed by the EC itself and not by its individual Member States and will become part of EC law. The New Lugano Convention will enter into force on the first day of the sixth month following the date on which the EC and an EFTA state deposit their instruments of ratification with the Swiss Federal Council.

As a result, following the entry into force of the New Lugano Convention, the recognition and enforcement in Hungary of a Swiss, Norwegian or Icelandic judgment will be subject to the provisions of this new international source of law. Based on the New Lugano Convention, a party seeking enforcement of such an EFTA judgment in Hungary is required to submit essentially the same documents to the competent Hungarian court as in case of a request for enforcement of an EC judgment. The actual enforcement procedure will be subject to Hungarian national law.

The contents of this article are intended to provide only a general overview of the subject matter. Specialist advice should be sought for specific matters. Queries relating to this article should be addressed to the authors at:

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