



ENFORCEMENTS OF FOREIGN ORDERS & JUDGEMENTS

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Successfully implementation of a foreign judgement in Spain could be a complex and delicate matter; so it is essential you get advice and support from a law firm that understands both the jurisdictions of Spain and the other country, such as the United Kingdom.

As a result of increased geographical mobility, with people often living outside their country of birth; the increased nature of international personal and professional relationships; or with families divided between two countries, the number of legal proceedings with an international component has been increasing.

Since individuals, business people and families often relocate within Europe, especially between Spain and the UK, moving assets or even children between nations, it is not uncommon for a legal judgement to be made and initiated in a country that is different to the one where an enforcement action is required.

For example proceedings may be commenced in the UK against a debtor in Spain; or a parent may seek child support from a former partner living in a different country. These types of issues mean that a judgement made in one country must eventually be successfully carried out in another nation.

In order for a judgement order issued by a foreign court to be implemented in Spain, it must first be recognised as legal by a Spanish court. This is particularly relevant to cases between Spain and other sovereign states where no treaties, bilateral or multilateral agreements exist for the automatic recognition of foreign judgments.

However, within the European Union there are a number of established procedures for the legal recognition of decisions made by a foreign court, so that these foreign orders can be acted on. In turn this greater legal cooperation has undoubtedly brought increased agility and greater simplicity in the enforcement of foreign judgements.

However with the courts matters are never completely predictable or straightforward. It is crucial for someone seeking the successful execution of a foreign enforcement order in Spain to have all the paperwork reviewed by a law firm that genuinely understands the two different jurisdictions; typically here, those of the UK and Spain. It is important to note that although an enforcement order, for example for recovery of debt, is issued abroad; it will be executed in Spain under Spanish law.

Normally one of the main reasons why Spain is requested to carry out a foreign judicial order is mainly because the defendant is residing in Spain or has assets in this country.

So in the case where the order is for the recovery of debt for example, it is possible in



Spain to place an embargo on the defendant's property here in Spain. Yet for the embargo to be recorded in the Land Registry and to be truly effective, the foreign enforcement order must meet the requirements of Spanish law.

Most importantly, if one is applying for this type of seizure of property, the order must identify the property without errors, clearly describing the property and its registration as it appears here in Spain in the Land Register. Without this unequivocal information, the Land Registrar will undoubtedly refuse registration; so it is important to ask a law firm based here to research the property details and correctly include them in the order before seeking recognition in the Spanish courts.

In addition, as a defendant based in Spain facing the enforcement of a foreign order, it is possible to protect property against this type of embargo, but again it is essential to swiftly seek legal counsel from an experienced firm in order that effective protective measures can be lodged with the Land Registry and the Spanish courts.

The issue of enforcements of foreign orders is a complex one, even more so when relating to Family Law and the issue of child abduction; maintenance and visitation – and it is probably best suited to another article. Yet in short it is worth noting that European law is now better suited to the successful execution of foreign enforcement procedures including those relating to Family Law. In the past few years changes to EU law, such as the Regulation 4 / 2009 relating to the enforcement of international judgments on alimony, where the debtor resides in a different country have made improved international legal cooperation.

If you wish more information on this particular topic or would like to discuss any matter raised in this article, contact Sandra Wrightson or Reyes Gomez Llorente on 952 527 014. Offices in Mijas Costa, Coín, Nerja, and Tenerife.

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