

ENFORCEMENT OF FOREIGN JUDGMENTS

Comparative Guide

Contributing Authors | Austria

RECHTSANWÄLTE
ATTORNEYS AT LAW



Klaus Oblin
Senior Counsel



Selin Deniz Ersoy
Counsel

Contributing Editor



HERBERT SMITH
FREEHILLS
KRAMER

1 Legal and judicial framework

1.1 Which legislative and regulatory provisions govern the recognition and enforcement of foreign judgments in your jurisdiction?

The recognition and enforcement of foreign judgments are governed by:

- the Code of Civil Procedure;
- the Enforcement Act;
- the Jurisdiction Act;
- the Insolvency Code; and
- the Non-contentious Proceedings Act.

The Enforcement Act outlines the general framework for the recognition and enforcement of foreign court decisions in Sections 403 and following, while other laws set out specific provisions regarding the recognition of foreign judgments in particular areas.

Section 614 of the Code of Civil Procedure provides for the recognition of foreign arbitral awards; while Section 109(b) of the Jurisdiction Act covers the enforceability of foreign judgments related to:

- child custody;
- personal contact; and
- adult protection.

Meanwhile, Section 240 of the Insolvency Code outlines the conditions for recognition of decisions made in insolvency procedures in other states. Lastly, the Non-contentious Proceedings Act governs the recognition and enforcement of foreign decisions in the following areas:

- adoption (Sections 91a to 91d);
- matrimonial matters (including validity, persistence and dissolution of marriage) (Sections 97 to 100);
- parental custody and access rights (Sections 112 to 116); and
- the protection of vulnerable adults and their property (Sections 131a to 131g).

In addition to these provisions, Austria is a signatory to various international treaties (see question 1.2). In case of conflict, these treaties and EU regulations override the domestic law.

1.2 Which bilateral and multilateral instruments on the recognition and enforcement of foreign judgments have effect in your jurisdiction?

Austria is a party to numerous bilateral and multilateral instruments governing the recognition and enforcement of foreign judgments. The most important among these is the EU Brussels Ia Regulation (1215/2012), which sets out uniform rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters across the European Union. It applies to proceedings initiated on or after 10 January 2015; while its predecessor – the Brussels I Regulation (44/2001) – remains applicable to earlier cases.

In addition, the Brussels IIb Regulation (2019/1111), which entered into force on 1 August 2022, replaced the Brussels IIa Regulation and now governs jurisdiction as well as the recognition and enforcement of decisions concerning:

- parental responsibility; and
- international child abduction.

Austria is also bound by the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, which entered into force for EU member states (except Denmark) on 1 September 2023. This convention introduced a global legal framework for the cross-border enforcement of judgments, though it excludes certain areas, such as:

- family law;
- insolvency; and
- intellectual property.

Lastly, Austria has concluded various bilateral treaties with non-EU states – such as Israel, Liechtenstein, Tunisia and Turkey – that provide reciprocal arrangements for the recognition and enforcement of judgments in civil and commercial matters. Other instruments regarding the recognition and enforcement of foreign judgments, between both EU and non-EU member states, are set out in the table below.

Instrument	Purpose
Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004	European enforcement order for uncontested claims
Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006	European order for payment procedure
Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007	Optional European procedure for small claims with a value of up to €5,000
Regulation (EC) No 4/2009 of the Council of 18 December 2008	Jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations
Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014	Established the European account preservation order procedure to facilitate cross-border debt recovery in civil and commercial matters
Regulation (EU) No 2015/848 of the European Parliament and of the Council of 20 May 2015	Insolvency proceedings
Regulation (EU) No 2016/1104 of the Council of 24 June 2016	Enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of the property consequences of registered partnerships
The Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 30 October 2007 (Lugano Convention)	Facilitates the mutual recognition and enforcement of judgments handed down by the national courts of EU member states and other contracting states
The Treaty on the Recognition and Enforcement of Judgments and Public Deeds in Civil and Commercial Matters of 23 June 1977 between Austria and Tunisia	Jurisdiction and recognition and enforcement of judgments
The Convention on the Recognition and Enforcement of Judgments, Arbitral Awards, Settlements and Public Deeds of 5 July 1973 between Austria and Liechtenstein	Jurisdiction and recognition and enforcement of judgments
The Convention on the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters of 6 June 1966 between Austria and Israel	Jurisdiction and recognition and enforcement of judgments
The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958	Recognition and enforcement of foreign arbitral awards
The Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 14 October 1966	Recognition and enforcement of International Centre for Settlement of Investment Dispute arbitral awards

1.3 Which bilateral and multilateral instruments on the recognition and enforcement of foreign judgments have effect in your jurisdiction?

Pursuant to Section 409 of the Enforcement Act, the district court of the obligor's residency or seat is the competent court in general for a declaration of enforceability.

The court issuing the declaration for enforceability may not be the same as that in which the enforcement itself will take place. According to Sections 4 and 5 of the Enforcement Act, the proper court for the motion for enforcement of a monetary claim on movable property is:

- the district court at the general place of jurisdiction of the debtor – which is determined:
 - in the case of natural persons, by their domicile or habitual residence; and
 - in the case of legal entities, by their registered office;
- the district court at the place where the movable property is located, if the debtor has no general place of jurisdiction; or
- if the debtor has its general place of jurisdiction at several domestic district courts, the creditor's choice of one of these district courts.

According to Section 5b of the Enforcement Act, the location of monetary claims is determined by the general place of jurisdiction of the third-party debtor. The proper court for the motion for enforcement of a monetary claim on immovable property is:

- the district court which keeps the public record; or
- if enforcement is carried out on a supraedificate, the district court where the supraedificate is located.

2 Requirements for enforceability

2.1 What types of judgments may be recognised and enforced in your jurisdiction? Are any types of judgments specifically precluded from enforcement?

Section 403 of the Enforcement Act states that foreign legal acts and/or deeds shall be enforced in Austria after being declared enforceable.

Section 406 sets out the general rule for the enforcement of foreign deeds and instruments. According to this general rule, a foreign executory title may be declared enforceable if the following conditions are met:

- The judgment is enforceable in the state in which it has been issued; and
- Reciprocity is guaranteed by international treaties or domestic regulations

There are also additional requirements to be met, as set out in Section 407:

- The foreign authority which issued the judgment had jurisdiction under standards comparable to Austrian law;
- The person against which enforcement is sought was properly served with notice of the proceedings; and
- The judgment is no longer subject to a legal process that prevents enforceability under the applicable law.

That said, the scope of application of Section 407 is different from that of Section 406, as it is applicable only to:

- judgments;
- settlements; and
- public deeds.

However, there is still a possibility of refusal of a declaration of enforceability, even if the requirements above are met, in the following situations stated in Section 408:

- The defendant was unable to participate in the foreign proceedings due to a procedural irregularity (Supreme Court of Justice Decision 3 Ob 123/12b, 19 September 2012);
- Enforcement would compel an act that is either unlawful or unenforceable under Austrian law; or
- Recognition or enforcement would involve a legal relationship or claim that is invalid or non-actionable in Austria for reasons of public policy or morality.

The Austrian courts will examine the requirements set out in Sections 406 and 407 ex officio; whereas the grounds for refusal under Section 408 are generally reviewed upon invocation by the opposing party.

2.2 Must a foreign judgment be final and binding before it can be enforced?

Although Section 407(3) requires that the foreign judgment be enforceable, the law does not explicitly prescribe that the judgment be final. Accordingly, there is no requirement for a judgment to be final and binding in order to enforce it. The foreign judgment must merely be enforceable according to the laws of its country of origin.

2.3 Is a foreign judgment enforceable if it is subject to appeal in the foreign jurisdiction?

As stated in question 2.2, under Austrian law, a foreign judgment need not be final and binding in order to be enforceable. Section 406 of the Enforcement Act sets out the general requirements for the recognition and enforcement of foreign judgments: enforceability and reciprocity. If the judgment remains enforceable in the country of origin despite being subject to an appeal, its enforceability likewise will not be affected in Austria.

However, if a foreign judgment is not yet final, the Austrian court may, upon the defendant's request, suspend the enforcement proceedings until finality is achieved (Section 411(5) of the Enforcement Act).

2.4 What is the limitation period for making an application for recognition and enforcement?

Under Austrian law, limitation periods are considered a matter of substantive law rather than procedural law. Therefore, the limitation periods may differ depending on:

- the claim in question; and
- the law applicable to that claim.

According to Section 1478 of the Civil Code, a judgment may be enforced within 30 years of its entry into legal force. The limitation period:

- starts from the day on which the judgment becomes legally binding; and
- is interrupted when a motion for enforcement filed and granted by the competent court.

In the case of a final judgment from a foreign court, Austrian law distinguishes between two scenarios:

- If the foreign judgment is enforceable in Austria, the statute of limitations must be assessed under the law applicable to the claim awarded in the judgment. In this case, the Austrian courts may reject the declaration of enforceability where, under the applicable foreign law, the right to enforce the judgment has already become time barred.
- If the foreign judgment is not enforceable in Austria, such a final judgment merely interrupts the statute of limitations under the law applicable to the claim awarded in the judgment and causes the limitation period to start to run again.

3 Recognition and enforcement process

3.1 Is recognition of a foreign judgment a separate process from enforcement and does it have separate legal effects?

As mentioned in Decision 3 Ob 18/12m (18 April 2012) of the Supreme Court, the procedure for examining the enforceability of a foreign enforcement title within Austria is not part of the enforcement procedure, but rather a *sui generis* procedure modelled on the enforcement procedure, which complements the foreign judgment procedure (title procedure).

Enforcement of a foreign judgment is possible only after obtaining a declaration of enforcement from the court. The foreign judgment becomes enforceable once the declaration of enforcement becomes effective. However, it is possible to file the application for a declaration of enforcement and a motion for enforcement at the same time, according to Section 412 of the Enforcement Act.

Nevertheless, foreign judgments issued in EU countries are subject to the Brussels regulations, which contain rules intended to eliminate the requirement of exequatur. According to these regulations, a judgment rendered by an EU state does not require a separate declaration for enforcement in order to be enforced in a different member state. In other words, a judgment is enforceable in other member states if it is enforceable in the member state in which it was issued.

To enforce the judgment in another member state, only the following are needed:

- a copy of the judgment; and
- a special certificate issued by the competent court stating that the judgment is enforceable.

3.2 What is the formal process for recognition and enforcement?

If the foreign court judgment to be enforced originated from a non-EU country and thus is not directly recognised in Austria, the process for recognition and enforcement involves the following phases:

- The party seeking enforcement must submit an application for a declaration of enforceability to the court of the debtor's residence. This application may be combined with the motion for enforcement, in which case the court will decide on both applications simultaneously. The court will decide on the application for a declaration of enforceability without:
 - a prior oral hearing; or
 - the opposing party's involvement.
- The judgment becomes enforceable once the declaration of enforcement becomes effective. From this point onward, the same rules that apply to the enforcement of Austrian judgments will apply to the enforcement of the foreign judgment, which means that it will be subject to the Enforcement Act.
- Either party may appeal the district court's order.

As explained in question 3.1, judgments rendered in other EU countries are recognised in Austria without a special procedure.

3.3 What documents are required in support of an application for recognition and enforcement?

The applicant must present either:

- the original version of the foreign judgment; or
- an official copy provided by the court that issued the decision.

Where necessary, this must be accompanied by a certified translation of the judgment in its entirety.

Under the Brussels Ia Regulation, the court or the enforcement authority may also request a translation or transliteration of the standard certificate from the court of origin, or of the complete judgment itself, if such a translation is deemed necessary to proceed with enforcement.

3.4 What fees are payable for recognition and enforcement?

Under the Court Fees Act, there is no court fee for the application for a declaration of enforceability. However, if the application for a declaration of enforceability is combined with a motion for enforcement, fees do apply for the enforcement proceedings. Pursuant to Section 3 of the Court Fees Act, the creditor initiating the enforcement must pay a flat fee pursuant to Tariff Item 4 (Z I), the amount of which will depend on the sum to be recovered.

3.5 Is the applicant required to provide security for costs?

There is no obligation to provide security costs at the time of application. However, under Section 411(5) of the Enforcement Act, if a request to suspend the enforcement of foreign judgments that are not yet final is made, the court may require the enforcing creditor to provide security to cover potential damages to the debtor before continuing with any already approved enforcement actions.

3.6 How long does it usually take to obtain a declaration of enforceability?

The duration of the process for obtaining a declaration of enforceability in Austria may vary depending on the workload of the competent court. It takes approximately one to two months for a decision on recognition and enforcement to be rendered at first instance. This period may be extended by a maximum of six months if the decision is appealed.

3.7 Can the applicant seek injunctive relief while the process is ongoing?

Yes, the applicant can seek injunctive relief while the enforcement process is ongoing. According to Section 378 of the Enforcement Act, the court may issue interim injunctions to secure a party's rights not only before but also during ongoing legal proceedings and enforcement procedures, upon application by the concerned party.

4 Defences

4.1 On what grounds can the defendant challenge recognition and enforcement of a foreign judgment?

The defendant may challenge the declaration of enforcement based on:

- the lack of one of the requirements for a declaration or enforceability as specified in question 2.1; or
- the grounds for refusal listed in Section 408.

The grounds specified in Section 408 are as follows:

- The defendant was unable to participate in the foreign proceedings due to a procedural irregularity.
- Enforcement would compel an act that is either unlawful or unenforceable under Austrian law.
- Recognition or enforcement would involve a legal relationship or claim that is invalid or non-actionable in Austria for reasons of public policy or morality.

4.2 What is the limitation period for filing a challenge?

In Austria, there is no distinct separation between a 'challenge' and an 'appeal' in the context of a declaration of enforceability. Since the declaration is issued ex parte, the defendant can only respond by filing a 'rekurs' (appeal), which serves both to:

- initiate its first participation in the proceedings; and
- contest the decision.
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Thus, the rekurs functions as both a challenge and an appeal. According to Section 411 of the Enforcement Act, the limitation period for filing an appeal against a decision regarding the application for declaration of enforceability is four weeks.

4.3 Can the defendant seek injunctive relief to prevent enforcement while a challenge is pending?

The defendant has a right to request the suspension of the recognition and enforcement proceedings if the foreign judgment is not yet final under the law of the state of origin. The court can also make the continuation of already approved enforcement measures conditional on the creditor providing appropriate security to cover potential damages to the debtor.

5 Court analysis and decision

5.1 Will the court review service of process in the initial proceedings?

Yes, proper service of the notice:

- is one of the requirements listed under Section 407 of the Enforcement Act; and
- is also regulated as a mandatory step prior to an enforcement procedure under Article 45(1) (b) of the Brussels Ia Regulation.

Therefore, it must be reviewed by the court when assessing the application for a declaration of enforceability. If the defendant was not duly served with the notice of proceedings, it may also invoke this as a ground for objection, upon which the court may assess the issue and refuse to recognise the judgment.

5.2 Will the court review the jurisdiction of the foreign court in the initial proceedings?

If the foreign court judgment originated from a non-EU state and does not fall within the scope of the Brussels regime, the Austrian court will review whether the foreign court had jurisdiction. The defendant may also raise an objection based on lack of jurisdiction. However, under the Brussels regime, the jurisdiction of the court of origin is not subject to review, in accordance with the principle that a judgment rendered in one member state will be recognised and enforceable in other member states without the need for a separate recognition process.

5.3 Will the court review the foreign judgment for compliance with applicable law and public policy?

Yes, the Austrian courts will review a foreign judgment to ensure that it complies with Austrian public policy (ordre public); but they will not assess whether the foreign judgment was correctly decided according to the applicable substantive law. The review is limited to ensuring that the judgment does not violate fundamental principles of Austrian legal order, such as basic constitutional rights or criminal law standards.

5.4 Will the court review the merits of the foreign judgment?

No, a foreign judgment will not be reviewed on the merits by the Austrian courts.

5.5 How will the court proceed if the foreign judgment conflicts with a previous judgment in relation to the same dispute between the same parties?

The refusal of recognition of foreign court judgments in certain matters (adoption, matrimonial matters, parental responsibility), where they conflict with earlier decisions on the same subject, is specifically regulated by the special provisions of the Non-Contentious Proceedings Act, as follows:

- Recognition of a foreign executory decision in adoption cases may be denied if it contradicts an Austrian judgment that pre-dates the foreign ruling, pursuant to Section 91a(2).
- Under Section 97(2), foreign decisions in matrimonial matters cannot be recognised if they conflict with an earlier Austrian decision on the same matter.
- According to Section 113, recognition or enforcement of a foreign judgment concerning parental responsibility is not permitted if it is incompatible with a subsequent Austrian ruling.

Moreover, for foreign judgments falling within the scope of the Brussels Ia Regulation, Article 45(1) (c) provides that recognition may be refused, upon application by an interested party, if the judgment is irreconcilable with a judgment given between the same parties in the member state addressed.

In contrast, there are no similar provisions in the Enforcement Act. A conflict between a foreign judgment and a previously rendered judgment in Austria regarding the same dispute between the same parties is not included among the grounds for refusal listed in Section 408.

5.6 Are there any other grounds on which the court may refuse to recognise and enforce the foreign judgment?

The court may refuse to recognise and enforce the foreign judgment if:

- any requirements in Section 406 or 407 are not met; or
- any grounds for refusal listed in Section 408 exist.

(See question 2.1.)

5.7 Is partial recognition and enforcement possible?

Yes, partial recognition is possible, provided that the part to be recognised is separable and clear.

5.8 How will the court deal with cost issues (eg, interest, court costs, currency issues)?

The court will rule on:

- court costs;
- attorneys' fees; and
- interest claims.

When assessing interest, the law applicable to the underlying claim generally also governs the applicable interest rate. However, any interest rate that violates Austrian public policy will be deemed unenforceable. Austrian courts do not convert the damages award into local currency when deciding on the declaration of enforceability; instead, the conversion is carried out once enforcement measures are initiated.

Under Austrian law, the general rule in legal disputes is the 'loser pays' principle, as established in Article 41(1) of the Code of Civil Procedure. Court and legal costs are recoverable, but only if the case becomes contested. As noted in question 3.4, an application for a declaration of enforceability is not subject to a separate court fee. However, if it is filed together with a motion for enforcement, the flat fee referred to in question 3.4 will apply. Where the debtor raises no objections to the enforcement title, the exequatur procedure entails only minimal additional costs – particularly because no court fee is charged for the application itself.

6 Appeals

6.1 Can decisions in relation to the recognition and enforcement of foreign judgments be appealed?

Yes, the appeal procedure regarding the decision on the declaration of enforceability is regulated in Section 411 of the Enforcement Act. The limitation period for filing an appeal against a decision regarding the application for a declaration of enforceability is four weeks. This period can be extended to eight weeks if the respondent does not have a residence or seat in Austria. The opposing party has four weeks to file a reply, starting from the time of being served.

The grounds for refusal mentioned in question 4.1 may be asserted at this point by the appellant, even if they were not apparent in the first instance. The appellant must set out all grounds for appeal in the appeal petition. Grounds for refusal not raised by the party will not be considered by the court.

The possibility of appealing against the second-instance decision is very limited in comparison to the first appeal. Pursuant to the Civil Procedure Code, the decision of the appellate court may be appealed only if the case involves a legal question of significant importance for:

- legal unity;
- legal certainty; or
- the development of the law.

6.2 Can the applicant seek injunctive relief while the appeal is pending?

Under Section 414(5) of the Enforcement Act, if the foreign judgment is not yet final under the law of the state of origin, the appellate court may, upon the defendant's request, suspend the recognition and enforcement proceedings. The court can also make the continuation of already approved enforcement measures conditional on the creditor providing appropriate security to cover potential damages to the debtor.

7 Enforcing the foreign judgment

7.1 Once a declaration of enforceability has been granted, how can the foreign judgment be enforced?

Once the declaration of enforceability has been granted, the foreign judgment will be treated in the same manner as a domestic judgment under the Enforcement Act. Austrian enforcement law allows for the enforcement of both monetary and non-monetary claims, with the applicable enforcement procedures varying according to the nature of the claim.

In practice, the vast majority of enforcement cases involve monetary claims; while non-monetary claims – such as those seeking to compel specific actions, tolerances or omissions – are relatively rare.

The Enforcement Act distinguishes between two main categories of enforcement measures:

- those targeting immovable property; and
- those directed at movable property.

For enforcement against immoveable property, the following enforcement measures are available:

- compulsory creation of a lien;
- compulsory administration; and
- compulsory auction.

For enforcement against movable property, the General Reform of Enforcement Law in 2021 introduced a distinction between the following types of enforcement:

- enforcement against movable assets;
- enforcement against monetary claims; and
- enforcement against property rights.

In 2021, the Enforcement Code was amended to introduce two enforcement packages aimed at streamlining the recovery of monetary claims:

- The basic package (Section 19) applies automatically when no specific enforcement measure is requested and includes:
 - chattel enforcement;
 - wage garnishment; and
 - the asset disclosure register.
- The extended package (Section 20):
 - covers enforcement against claims and property rights; and
 - requires the appointment of an administrator to identify and select assets.

The enforcement of specific receivables – such as nursing allowance, rent aid, family allowance and scholarships – is not allowed under Austrian law.

7.2 Can the foreign judgment be enforced against third parties?

No, a foreign judgment can only be enforced against the party which is named as a debtor in the foreign judgment. The principles of alter ego and agency do not apply in Austria.

8 Trends and predictions

8.1 How would you describe the current enforcement landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

Austria continues to offer a well-structured framework for the recognition and enforcement of foreign judgments, grounded in:

- EU regulations;
- international treaties; and
- domestic law.

A key development is the European Union's accession to the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, which entered into force on 1 September 2023. Austria is bound by the convention as an EU member state. This provides a uniform legal basis for enforcing civil and commercial judgments from non-EU countries that are signatories to the convention, particularly where no bilateral treaties exist. The scope of the Hague Convention is limited to civil and commercial judgments, and even within this scope, there are specific exclusions. Under Article 2 of the convention, it does not apply to judgments relating to matters such as:

- the status and legal capacity of natural persons;
- wills and succession;
- insolvency;
- family law matters, including matrimonial property regimes; and
- intellectual property.

The convention establishes a set of conditions – which are largely aligned with Austrian law – for the recognition and enforcement of judgments, while delegating procedural matters to the domestic legal systems of the contracting states.

At the EU level, the Brussels IIb Regulation has applied since August 2022, enhancing cross-border enforcement in family matters.

However, recent geopolitical developments have also led to targeted restrictions. On 16 December 2024, the European Union adopted its 15th package of sanctions against Russia, which introduced specific measures to protect EU-based companies from certain Russian judicial decisions. In particular, courts in EU member states, including Austria, are now barred from enforcing Russian judgments rendered pursuant to Article 248 of the Russian Arbitrazh Procedural Code.

Domestically, reforms to the Enforcement Act in 2021 improved creditor access to enforcement data and introduced 'enforcement packages' to streamline the recovery of monetary claims on movable property.

In Austria, many cases brought before the Supreme Court concerning the recognition and enforcement of foreign judgments typically involve issues related to violations of public policy. In a recent decision, the Supreme Court emphasised that when reviewing appeals, the examination of foreign arbitral awards with respect to Austrian public policy must not turn into a substantive reassessment (prohibition of *révision au fond*). In doing so, the court clearly drew an important boundary (OGH 3Ob36/25b, 16 April 2025). In another decision on the enforcement of foreign arbitral awards, the Supreme Court clarified that a foreign annulment of an arbitral award does not prevent its enforcement in Austria if the annulment would violate Austrian public policy (OGH 3Ob2/21x, 24 March 2021).

This decision:

- protects parties from unfair annulments abroad; and
- reaffirms Austria's pro-arbitration stance under the New York Convention.

Regarding the enforcement of arbitral awards, the Court of Justice of the European Union (CJEU) has issued a number of rulings that have questioned the admissibility of intra-EU arbitration clauses, following its argumentation in *Achmea v Slovakia* in March 2018. At that time, the CJEU concluded that investment arbitration proceedings based on bilateral investment treaties (BITs) contravene EU law. In its decision in *Komstroy v Moldova*, issued on 2 September 2021, the CJEU extended this case law to intra-EU arbitrations based on arbitration clauses contained in the Energy Charter Treaty. In *Poland v PL Holdings*, decided on 26 October 2021, the CJEU went one step further and ruled that EU member states are prohibited from entering into ad hoc arbitration agreements with EU investors if they would replicate the content of a BIT.

Currently, the enforcement of intra-EU arbitral awards stemming from investor-state dispute settlement proceedings is prohibited in EU member states, including Austria.

Overall, Austria's enforcement landscape is evolving towards greater efficiency and broader international compatibility.

9 Tips and traps

9.1 What are your top tips for smooth recognition and enforcement of foreign judgments, and what potential sticking points would you highlight?

For the smooth recognition and enforcement of foreign judgments in Austria, it is essential to begin by verifying whether the judgment falls within the scope of a relevant international instrument, such as:

- the Brussels regime;
- the Lugano Convention;
- the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters; or
- applicable bilateral agreements.

Since enforcement is meaningful only if the debtor possesses assets in Austria, it is also advisable to conduct a preliminary asset check. Publicly available information on this is limited and not easily accessible. However, once a foreign enforceable title is recognised in Austria, the creditor's attorney may request information about the debtor's assets – for instance, through credit agencies. It is also recommended to determine whether any existing enforcement proceedings are already pending against the debtor or respondent. Recent amendments to the Enforcement Act further support such inquiries.

That said, certain obstacles may arise. Recognition may be denied if the foreign judgment is deemed to violate Austrian public policy, especially in sensitive areas such as family law or insolvency. Similarly, judgments obtained without proper service or in violation of basic due process rights are likely to be challenged. Awareness of these potential issues from the outset is key to avoiding delays or refusal.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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