

Legal 500

Country Comparative Guides 2026

Austria

Enforcement of Judgments in Civil and Commercial Matters

Contributor



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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in Austria.

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Austria: Enforcement of Judgments in Civil and Commercial Matters

1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

The applicable framework operates on two levels: international instruments (EU regulations, multilateral conventions, and bilateral treaties), and domestic legislation. Where the two levels conflict, international treaties and EU regulations override domestic law.

A. International level

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

B. Domestic level

On the domestic level 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).

2. What, if any, reservations has your jurisdiction made to such treaties?

Austria has made no relevant reservations to the international instruments applicable to the recognition and enforcement of foreign judgments.

3. Can foreign judgments be enforced in your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

Enforcement remains available under Austrian domestic law where no applicable treaty or other international instrument governs. Sections 403 et seq. of the Enforcement Act provide a general framework for the recognition and enforcement of foreign court decisions independently of any specific international instrument.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

Section 403 of the Enforcement Act broadly 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 (Austrian Supreme Court 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.

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

A. Brussels Ia Regulation

Under Brussels Ia (Regulation (EU) No 1215/2012),

exequatur has been abolished. The creditor applies directly to the competent Austrian enforcement court and submits:

- the judgment; and
- the standard certificate issued by the court of origin under Article 53.

No separate declaration of enforceability is required, and enforcement proceeds as if the judgment were an Austrian judgment. The debtor may subsequently apply for refusal of enforcement only on the limited grounds set out in Articles 45-46.

B. Other international instruments

Judgments falling under the Lugano Convention, the 2019 Hague Judgments Convention or Austria's bilateral treaties with Israel, Liechtenstein, Tunisia and Turkey require a prior declaration of enforceability under Sections 403-411 of the Enforcement Act.

The creditor files a written application with the competent district court, enclosing:

- the original judgment or a certified copy;
- evidence of its finality and enforceability in the state of origin; and
- a certified translation, where required.

The court examines the mandatory requirements under Sections 406-407 of the Enforcement Act *ex officio*. The debtor may challenge enforcement on the grounds set out in Section 408 of the Enforcement Act.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

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, and if the documents are in order,

the court grants the enforcement order;

- The judgment becomes enforceable once the declaration of enforceability 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.

Notably, 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 enforceability from the court. The foreign judgment becomes enforceable once the declaration of enforceability becomes effective. However, it is possible to file the application for a declaration of enforceability 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 of enforceability 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.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

Yes, Austrian courts impose formal requirements on foreign judgments before enforcement, and apostille or legalisation is generally part of that, though whether it is actually required depends on the judgment's country of origin.

The applicant must present either

- the original version of the foreign judgment or

- an official copy issued by the court of origin,
- where necessary accompanied by a certified translation of the judgment in its entirety, prepared by an Austrian certified court translator.

Under Section 293(2) of the Code of Civil Procedure, the recognition of foreign public documents, including judgments, is governed by the law of the state of origin and requires reciprocity and the prescribed authentication. Unlike Austrian public documents, foreign documents are not subject to the statutory presumption of authenticity and generally require authentication under Section 311 of the Code of Civil Procedure. The Supreme Court confirmed this approach in the decision 5 Ob 96/15a, 19 June 2015, holding that the absence of a required apostille prevented the authenticity of the foreign document from being established.

The applicable authentication requirement depends on the state of origin. No apostille or legalisation is generally required for documents from EU/EEA states, Switzerland or states covered by a bilateral exemption treaty with Austria. For states party to the 1961 Hague Apostille Convention, an apostille replaces full diplomatic legalisation. For states not covered by the Convention or a bilateral exemption, full diplomatic legalisation is required.

For judgments falling within the Brussels Ia Regulation (EU) No 1215/2012, however, Articles 37 and 42-43 dispense with apostille and legalisation. The applicant need only provide the judgment together with the standard certificate issued by the court of origin. A translation of the certificate or judgment may nevertheless be requested where necessary under Article 43(2) and Article 57.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

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.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while

the enforcement or registration procedure takes place?

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.

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

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.

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

- Where 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. On this basis, 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. Once the declaration of enforceability is granted, the judgment becomes an Austrian enforcement title, and from that point the limitation period under Section 1478 of the Civil Code applies going forward: the judgment may be enforced within 30 years of its entry into legal force, this period starting from the day the judgment becomes legally binding, and being interrupted where a motion for enforcement is filed with and finally granted by the competent court.
- Where the foreign judgment is not enforceable in Austria, it does not acquire the status of an Austrian enforcement title and therefore does not benefit from the 30-year period under Section 1478 of the Civil Code. Such a final judgment merely interrupts the statute of limitations under the law applicable to the claim awarded in the judgment, causing that (ordinary, non-extended) limitation period to start running again from the date of the judgment.

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

The defendant may challenge the declaration of enforceability based on:

1) the lack of one of the requirements for a declaration of enforceability as specified in Section 406 of the Enforcement Act:

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

2) the lack of one of the requirements for a declaration of enforceability as specified in Section 407 of the Enforcement Act:

- 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;

3) the grounds for refusal listed in Section 408:

- the defendant was unable to participate in the foreign proceedings due to a procedural irregularity (Austrian Supreme Court 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.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

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

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over

the defendant? If so, what criteria will they apply to this?

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.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

Yes. Austrian courts impose service-related requirements when reviewing a foreign judgment for a declaration of enforceability, and proper service is central to whether a default judgment can be enforced. Foreign judgments in default are generally enforceable in Austria, but a declaration of enforceability will be refused where the defendant was unable to participate in the foreign proceedings due to a procedural irregularity (Austrian Supreme Court Decision 3 Ob 123/12b, 19 September 2012).

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

No, Austrian courts do not have general discretion over recognition of foreign judgments, as it is governed by defined statutory requirements and a closed list of refusal grounds.

Courts examine the mandatory requirements under Sections 406 and 407 of the Enforcement Act ex officio, and a foreign judgment may under no circumstances be reviewed as to its merits. Beyond this, refusal is limited to specific grounds: inability of the defendant to participate due to a procedural irregularity, enforcement compelling an unlawful act, or violation of public policy, generally invoked by the opposing party rather than raised by the court. Even public policy is applied narrowly: refusal succeeds very rarely in practice, leaving no residual judicial discretion outside these defined grounds.

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

In general, all judgments ordered by a foreign court are enforceable in Austria, provided the foreign judgment represents a writ of execution in its country of origin and is at least temporarily enforceable there. There is no categorical exclusion by judgment type; rather, exclusion turns on the substance of the remedy. Austrian public policy must be considered when assessing whether remedies are enforceable, and only remedies that do not violate the fundamental principles of Austrian law will be enforceable.

Austrian law does not countenance punitive damages, and while there is no directly applicable case law, it is argued in legal literature that the concept of punitive damages may violate Austrian public policy and would thus be unenforceable in Austria. The same reasoning is generally understood to extend to multiple/treble damages awards, to the extent they exceed compensatory purpose. Where a judgment is only partly objectionable, partial recognition is possible, provided the admissible part is separable and clear from the inadmissible part.

Any interest rate applied that violates Austrian public policy will likewise be deemed unenforceable, even though the applicable interest rate is otherwise governed by the law applicable to the underlying claim.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

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.

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).

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

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 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.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

Yes, interest awarded by a foreign judgment forms part of the enforceable claim and may be recovered together with the principal amount. The enforcement application should specify the applicable interest rate, the date from which interest accrues and, where applicable, the date on which it ceases to accrue, as determined by the foreign judgment or the law governing the underlying claim.

Where the foreign judgment does not award interest and Austrian law applies, the statutory default rate is 4% per annum under Section 1000 of the Civil Code. For commercial transactions between businesses, the default interest rate is 9.2 percentage points above the applicable base rate pursuant to Section 456 of the Commercial Code.

20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

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 (Austrian Supreme Court Decision 3 Ob 232/74, 11 February 1975).

Section 907b of the Civil Code gives the debtor of a foreign-currency debt payable in Austria a right of substitution to discharge it in euro, with conversion carried out at the exchange rate applicable on the day of actual payment, not at the date of judgment or any earlier procedural step.

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

Yes, Austrian law follows the "loser pays" principle, under which the losing party must reimburse the necessary costs of the proceedings to the prevailing party pursuant to Section 41 of the Code of Civil Procedure, and this extends to enforcement proceedings specifically. The costs of enforcement comprise lawyers' fees, any costs of the execution proceedings (e.g., an execution fee), and court fees.

The application for the declaration of enforceability is not subject to court fees in Austria. For the application for enforcement, court fees must be paid under the Court Fees Act, which also applies to the enforcement of domestic judgments.

Recoverable lawyers' fees are not open-ended. Reimbursement of legal fees is owed only to the extent prescribed by the Attorneys' Fees tariff, regardless of the actual hourly rate agreed between creditor and counsel, meaning any shortfall between actual and tariff-recoverable fees remains with the creditor.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

Yes, third-party funding is permitted in Austria and applies equally to enforcement proceedings. There are no

specific statutory provisions regulating litigation funding; instead, its legitimacy is judicially established. The Austrian Supreme Court approved third-party funding in 2013 (Austrian Supreme Court Decision 6 Ob 224/12b, 27 February 2013) and has since confirmed its permissibility on several occasions, including an obiter dictum in 2021 (Austrian Supreme Court Decision 18 OCg 5/21s, 15 December 2021).

The restrictions arise from two distinct sources:

- First, there is a general statutory safeguard: like any contract under Austrian law, a funding agreement must not constitute profiteering under the Act against Profiteering.
- Second, the Austrian Supreme Court has developed limits on the funder's role. In a series of decisions (23 February 2021, 4 Ob 180/20d; 25 March 2021, 2 Ob 10/21s; 10 September 2024, 4 Ob 144/24s), the Supreme Court held that a funder must not exercise direct influence over the proceedings or over how the funded party's lawyer conducts the case. The funded party must remain the "master of the proceedings".

On liability for the other side's costs, Austrian law does not extend cost-shifting to funders. The Code of Civil Procedure provides no basis for ordering a funder to pay adverse costs.

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The enforcement of foreign judgments in Austria over the next five years is likely to be shaped by three main developments.

- First, EU restrictive measures will continue to affect the enforcement of judgments in favour of Russian and Belarusian parties, with Austrian courts likely to further clarify the interaction between sanctions compliance and the recognition and enforcement framework under the Brussels I bis Regulation and the Lugano Convention.
- Second, enforcement proceedings are expected to become increasingly digitalised, including through greater use of electronic asset-tracing tools, closer integration with the Austrian register of accounts and streamlined electronic filing, thereby reducing the time required for straightforward money judgment

enforcement.

- Third, enforcement against Russian state and state-linked assets is likely to remain contentious, particularly in relation to sovereign immunity and the scope of attachable assets, as Austrian courts consider immunity principles against creditors' enforcement rights.

24. Has your country ratified the Hague Choice of Courts Convention 2005, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

Austria is bound by the 2005 Hague Choice of Court Convention as a result of its approval by the European

Union on behalf of its Member States pursuant to Council Decision 2014/887/EU of 4 December 2014. The Convention entered into force for Austria on 1 September 2015.

25. Has your country ratified the Hague Judgments Convention 2019, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

Austria is bound by the 2019 Hague Judgments Convention as a result of its approval by the European Union on behalf of its Member States pursuant to Council Decision (EU) 2022/1206. The Convention entered into force for Austria on 1 September 2023.

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