

**RECOGNITION OF FOREIGN  
COURT DECISIONS IN THE  
REPUBLIC OF SRPSKA/  
FEDERATION OF BOSNIA  
AND HERZEGOVINA**



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## **RECOGNITION OF FOREIGN COURT DECISIONS IN THE REPUBLIC OF SRPSKA/ FEDERATION OF BOSNIA AND HERZEGOVINA**

### **1. Applicable laws**

Recognition procedure in the Federation of Bosnia and Herzegovina is performed in accordance with the provisions of the Law on Non-Contentious Proceedings, which accordingly applies provisions of the Law on Civil Procedure, if not otherwise determined by law, as well as the Law on Resolving Conflict of Laws with Regulations of Other Countries („Official Gazette of SFRJ“ 43/82, 72/82-1645), Decree Law on Recognition and Application of Federal Laws applied in BiH as republic regulations („Official Gazette of RBiH“ no. 2/92-5, 13/94-189) and the Law on Courts in FBiH („Official Gazette of FBiH“ no. 38/05, 22/06 and 63/10).

Recognition procedure in the Republic of Srpska is conducted in accordance with the provisions of the Law on Non-Contentious Proceedings, which directs accordingly to the application of provisions of the Law on Civil Procedure, if not otherwise stated by law, as well as the Law on Resolving Conflict of Laws with Regulations of Other Countries („Official Gazette of SFRJ“ 43/82, 72/82-1645), Decree Law on Recognition and Application of Federal Laws applied in BiH as republic regulations („Official Gazette of RBiH“ no. 2/92-5, 13/94-189) and the Law on Courts in RS („Official Gazette of RS“ no. 37/12).

### **2. General rules on enforcement of foreign judgments in the Republic of Srpska/Federation of Bosnia and Herzegovina**

Law on Resolving Conflict of Laws with Regulations of Other Countries in certain cases strictly prescribes that the recognition of foreign court status decisions may be requested by anyone who has a legal interest in the given matter, including the persons who were not parties to the proceeding, i.e. entities that were not directly encompassed by the decision.

Constitutional rule which must be directly and primarily applied in all proceedings is to allow every person, on whose rights is to be decided, to participate in the proceeding.

The recognition procedure is initiated upon the proposal of the authorized party (party to the proceeding).

a) The proposal must be accompanied by:

- the original foreign court decision whose recognition is requested along with the confirmation of the competent court, i.e. relevant authority, on the validity of the same, in accordance with the applicable law of the country in which it was issued, or verified copy of the same;
- Translation of the decision done by the court interpreter registered as permanent court interpreter;
- Extract from the Register of marriages, in case of recognition of the foreign court decision on divorce;
- Proof of payment of court fees, in accordance with the Law on Court Fees.

Territorial jurisdiction over recognition and enforcement of foreign court decisions belongs to the court in which territory the recognition and enforcement procedure is to be conducted.

Subject-matter jurisdiction of the Cantonal Court/District Court to decide on the recognition of foreign court decisions, foreign commercial court and foreign arbitration is determined by the Law on Courts of FBiH/RS.

b) Competent court shall refuse to recognize a foreign court decision in the following cases:

- If upon appeal of the person, against whom the decision was issued, it is determined that this person could not have participated in the proceeding due to procedure irregularities (referring to the fact that the invitation, complaint or decision upon which the proceeding was initiated had not been delivered personally, or there had not been an attempt of personal delivery at all).
- If the subject matter is under exclusive jurisdiction of the court or other authority of Bosnia and Herzegovina,
- If the court or some other authority of Bosnia and Herzegovina has already passed a final decision on the same subject matter or if some other foreign court decision issued regarding the same subject matter has already passed the recognition procedure in Bosnia and Herzegovina
- If contrary to the foundations of social organization determined by the Constitution of Bosnia and Herzegovina,
- If there is no reciprocity. The existence of reciprocity regarding the recognition of foreign court decision shall be presumed until otherwise proven. In case the existence of reciprocity is doubted, the administrative authority in charge of judiciary system shall provide the appropriate explanation.

The absence of reciprocity does not prevent the recognition of foreign court decision issued in marital disputes or disputes related to the establishment of maternal and paternal affiliation, or in case when the recognition and enforcement of foreign court decision is requested by a citizen of Bosnia and Herzegovina.

If upon submitted proposal for recognition of foreign court decision it is determined that the residence of the opposing party is unknown, and he does not have any representative (e.g. Recognition of foreign court decisions on divorce), the provisions of the Law on Civil Procedure regarding the appointment of temporary representative shall be applied. The costs of this procedure must be paid in advance by the proponent.

### **3. Legal remedy**

Parties may file an appeal against the decision on recognition or enforcement of foreign court decision within 15 days from the day of receipt of the decision, which shall be considered by the second-instance court, in this case the Supreme Court of RS/FBiH. Both procedures, *restitutio in integrum* and the reopening of the proceeding, would be allowed upon the adoption of the decision.

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