



Recognition of foreign judicial decisions in Spain: Exequatur

There are many clients' inquiries we receive regarding the **recognition of foreign judicial decisions in Spain**.

The recognition and homologation of foreign sentences in Spain, follows different channels depending on whether the court issuing the resolution is community or not.

In the first case, if the operative act comes from a European Union member state (except Denmark), the recognition and enforcement of the sentence will be automatic.

The recognition is obtained with the simple presentation of the corresponding resolution. The following regulations shall apply: Regulation 1215/2012 for judicial decisions in civil and commercial matters, and 2201/2003 for judicial decisions in matrimonial matters and parental responsibility.

In the event that the judgment is issued by a Court of a country that is not a member of the European Union, the **recognition and enforcement of sentences** between them will be carried out through the figure of the "exequatur".

I. - Concept and applicable regulation.

The exequatur can be defined as the set of rules according to which the legal system of one State proves that a judicial sentence issued by a Court of another State meets the requirements that allow its recognition and approval.

By virtue of recognition, the foreign resolution may produce the same effects in Spain as in the State of origin.

ALL THE ESCURA REPORTS ARE IN OUR BLOG - <https://blog.escura.com>



The reports of **ESCURA** are merely informative, summary provisions which, by the limitation nature of any summary, may require further information. This report does not constitute legal advice.

©This information is the property of **ESCURA** reproduction without express permission is prohibited.

The norm that regulates the exequatur in Spain is Law 29/2015 of July 30 of International Legal Cooperation in Civil Matters.

II. - Formalities and requirements.

The resolutions that can be recognized by exequatur in Spain are:

- Firm foreign resolutions relapsed in a judicial proceedings.
- Final foreign resolutions adopted in the framework of a voluntary jurisdiction procedure.
- During the entire exequatur procedure, the substance of the matter cannot be reviewed.
- Recognition can't be denied for the fact that a different order has been applied than it would have been according to the rules of Spanish private international law.

III. - Competition.

The competence to hear exequatur applications corresponds to the Courts of First Instance of the domicile of the party to whom recognition or enforcement is requested, or of the person to whom the effects of the foreign judicial resolution refers.

IV. - Legitimacy.

Any person in whose favor the judgment was issued in a foreign country.

Any person to whom the Judgment or judicial resolution whose recognition is intended causes damage or prevents a benefit.

V. - Representation.

In the exequatur process, the parties must be represented by an attorney and assisted by a lawyer.

VI. - Documents.

It will begin by means of a demand for exequatur and request for execution that may be accumulated in the same document. However, the execution will not proceed until a resolution has been issued decreeing the exequatur.

Together with the exequatur demand, the following documents must be provided:

- Authentic copy of the legalized Judgment or with the Apostille of The Hague.
- Certificate of testimony that the Judgment is firm.
- Certificate that the Judgment has been notified to the defendant or if it has been issued in default.
- Sworn translation of the Judgment if it is in a language other than Spanish.
- Photocopy of the ID / NIE.
- General power for lawsuits.

VII. - Causes of denial recognition.

ALL THE ESCURA REPORTS ARE IN OUR BLOG - <https://blog.escura.com>



The reports of **ESCURA** are merely informative, summary provisions which, by the limitation nature of any summary, may require further information. This report does not constitute legal advice.

©This information is the property of **ESCURA** reproduction without express permission is prohibited.

The causes of denial of the recognition of foreign judgments are regulated in Art. 46 of Law 29/2015, of July 30 and are:

- Resolution against public order.
- Resolution issued against violating the rights of defense of either party.
- Foreign decision that has been pronounced on a matter for which the Spanish courts are exclusively competent or, in regard to other matters, if the jurisdiction of the judge of origin does not obey a reasonable connection. The existence of a reasonable connection to the dispute will be presumed when the foreign court has based its international judicial jurisdiction on similar criteria to those provided for in Spanish legislation.
- Resolution incompatible with a resolution issued in Spain.
- Resolution incompatible with a resolution previously issued in another State, when it meets the conditions for its recognition in Spain.
- When there is a pending litigation in Spain between the same parties and for the same purpose, initiated prior to the process abroad.

The granting of the exequatur **produces the same legal effects as the foreign judgment has in its country of origin.**



ALL THE ESCURA REPORTS ARE IN OUR BLOG - <https://blog.escura.com>



The reports of **ESCURA** are merely informative, summary provisions which, by the limitation nature of any summary, may require further information. This report does not constitute legal advice.

©This information is the property of **ESCURA** reproduction without express permission is prohibited.