

Practical Guide

the Enforcement of Foreign Titles in Algeria

Introduction



This guide aims to set out the procedure to be followed in order to obtain exequatur in Algeria, that is, the recognition and enforcement of a foreign title, whether in the form of a judgment, a notarized deed, or an arbitral award. It explains the legal framework, the practical judicial procedure, the documents required, the possible grounds for refusal, and the available enforcement measures. It also includes the relevant provisions of the 1958 New York Convention relating to the recognition and enforcement of foreign arbitral awards.

The purpose of this guide is to assist foreign economic operators in securing the recognition and enforcement of foreign titles in Algeria in accordance with the Algerian legal system, anticipating potential obstacles, and preparing a robust file in order to reduce delays and the risk of rejection.

I. Legal Framework for Exequatur in Algeria

The enforcement of foreign titles in Algeria is primarily governed by the provisions of the Code of Civil and Administrative Procedure (CCAP), in particular Articles 605 to 608, which regulate the recognition and enforcement of foreign judicial decisions and authentic instruments. With regard to arbitral awards, the 1958 New York Convention, ratified by Algeria, constitutes the principal legal basis for the recognition and enforcement of foreign arbitral awards rendered in contracting States.

In this context, several terms should be clarified:

- A foreign title refers to any judgment or authentic instrument issued outside Algerian territory.
- Exequatur is the decision by which the Algerian judge authorizes the enforcement of such title within the national territory.
- A foreign arbitral award is an award rendered outside Algeria, the enforcement of which is subject to the provisions of the CCAP and, where applicable, to the New York Convention.

II. Enforcement of Foreign Judgments and Notarial Deeds

General Principles

Foreign judgments are not automatically enforceable in Algeria. Exequatur is subject to the following conditions:

- confirmation of the substantive jurisdiction of the foreign court under the applicable law;
- confirmation that the foreign judgment is final and enforceable under the law of the State in which it was rendered;

- confirmation that the judgment is free from fraud and is not contrary to Algerian international public policy;
- confirmation that the foreign judgment does not conflict with any prior judgment rendered by Algerian courts;
- verification that the proceedings before the foreign court respected the adversarial principle and the rights of defence.
- Foreign notarial deeds, although regarded as authentic instruments in their country of origin, are not directly enforceable in Algeria. They require an Algerian declaratory judgment granting enforceability (exequatur). In certain cases, a bilateral treaty or judicial cooperation mechanism may allow them to take effect more directly.

Competent Jurisdiction

The exequatur application for foreign judgments between commercial companies is brought before:

- the court located at the seat of the Court of Appeal within whose territorial jurisdiction the defendant resides; or
- the court of the place where enforcement is sought, where the parties to the foreign judgment are not Algerian commercial companies residing in Algeria.

In the latter case, the applicant must explain to the judge the basis on which enforcement may be sought in Algeria or, alternatively, the legal effects that the foreign judgment is intended to produce in Algeria.

Required Documents

The exequatur application before the competent Algerian court must be supported by the following documents:

- a reasoned application setting out the facts and identifying the foreign judgment or notarial deed to be enforced;
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- the original, or a certified true copy, of the judgment or notarial deed for which exequatur is sought;
- a sworn translation into Arabic;
- the enforcement formula (writ of execution) relating to the judgment or notarial deed, or any other document evidencing its enforceability;
- proof of proper service of the summons to appear on the defendant, demonstrating compliance with the adversarial principle and the rights of defence.

Common Grounds for Refusal

The Algerian judge may refuse recognition where:

- the judgment conflicts with proceedings pending in Algeria;
- the foreign court lacked substantive jurisdiction over the dispute;
- the decision is tainted by fraud;
- the instrument for which exequatur is sought violates Algerian public policy.

Effects and Enforcement Measures

Once exequatur has been granted:

- the decision becomes enforceable in Algeria;
- the Algerian enforcement judge may authorize bank attachment, seizure and sale of assets, real estate attachment, garnishment, or other precautionary or enforcement measures designed to secure execution.

III. Enforcement of Foreign Arbitral Awards

Legal Basis

Algeria has ratified the 1958 New York Convention. Any foreign arbitral award rendered in a contracting State may therefore be recognized and enforced in Algeria, subject to compliance with the conditions

laid down by the Algerian Code of Civil and Administrative Procedure.

Procedure and Required Documents

The application is submitted to the President of the competent court at the place of enforcement by way of an ex parte petition (order upon request) and must be accompanied by the following documents:

- the original arbitral award, or a certified copy thereof;
- the original arbitration agreement, including the arbitration clause where contained in the contract;
- a sworn translation of the arbitral award into Arabic;
- where applicable, an apostille or equivalent legalization, depending on the country of origin.

The President of the court verifies the validity of the arbitration agreement, compliance with public policy, and the absence of fraud.

Annulment and Appeals

An Algerian court order refusing recognition of a foreign arbitral award may be appealed before the competent Court of Appeal within one (1) month from notification of the order issued by the President of the court.

An Algerian court order granting recognition of a foreign arbitral award may be appealed before the competent Court of Appeal only on the following grounds:

- absence of an arbitration agreement;
- irregular constitution of the arbitral tribunal;
- the arbitrators exceeded the scope of their mandate;
- violation of the adversarial principle;
- lack of reasons in the arbitral award, or contradictory reasoning;

- the arbitral award is contrary to Algerian public policy.

It should also be noted that arbitral awards rendered in Algeria in matters of

international arbitration are subject to annulment proceedings under the conditions set out above.

Risks and Recommendations

- Anticipate objections based on public policy.
- Verify whether any bilateral conventions may simplify proof of authenticity or enforceability.
- Engage counsel experienced in exequatur and arbitration matters in order to ensure compliance with local practice.
- Prepare a complete file, including translations, legalization or apostille where necessary, certification, proof that the decision is final and enforceable, and evidence that no conflicting proceedings are pending in Algeria.

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