

ANGOLA

FBL ADVOGADOS



FIRM INFORMATION

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ENFORCEMENT OF FOREIGN MONEY JUDGMENTS

What Laws Regulate Enforcement?

Foreign judgments are enforced under the Angolan Civil Procedural Code.

Treaties

Angola is not party to any treaty concerning the enforcement of foreign money judgments.

Jurisdiction over Foreign Judgment Debtors

Under the Angolan Civil Procedural Code, Angolan courts have jurisdiction to enforce a foreign judgment against a foreign defendant if:

- The contract which gave rise to the claim was executed in Angolan territory;
- The plaintiff is Angolan and where the courts of the country of the foreign defendant accord Angolan citizens reciprocal treatment;
- There is a connecting factor between the claim and the Angolan courts, such as the defendant's residence or location of his assets in Angola;
- The foreign defendant was resident in Angola for more than six months.

Requirements for Enforcement

The following are the requirements for enforcement of foreign money judgments in Angola:

- The judgment must not have been obtained by fraud;
- The foreign judgment must be enforceable in its country of origin;
- The foreign court must have had jurisdiction in accordance with the rules regulating conflicts of jurisdiction under Angolan law;
- The foreign judgment must be final in the sense that it must not be pending appeal before the foreign court;
- The foreign judgment must not conflict with an earlier Angolan or foreign judgment concerning the same matter between the same parties;
- The foreign judgment must not conflict with Angolan public policy;
- The foreign judgment must not offend the provisions of Angolan private law or Angolan conflict of law rules;

- The defendant must have received notice of the foreign proceedings against him. This entails the formal service of the summons commencing the action under the foreign law.

Authentication and Translation of Judgment

Foreign judgments are required to be authenticated at the Angolan Embassy in the country of origin in order to be enforceable in Angola.

Judgments in a foreign language are required to be translated into Portuguese.

Procedure

The enforcement procedure is by way of application to the Supreme Court of Angola which will afford the defendant ten days within which to oppose enforcement. Both parties are entitled to appear before the Civil Public Prosecutor and to make submissions. The court will then either grant or refuse enforcement. The Supreme Court is obliged to examine the foreign judgment to ensure that it does not contravene any Angolan public policy principle. After being reviewed and enforced, the foreign judgment will be sent to a first Instance Court to be executed.

In the Angolan civil courts the Public Prosecutor has specific powers to defend the interests of the State, and to defend the rights of minors under the age of 18 years who do not have full legal capacity. The Civil Prosecutor ensures fair process and prevents abuse of rights.

How long does Enforcement take?

Enforcement will take between one to three years.

Judgments in a Foreign Currency

Foreign judgments will usually be awarded in the local currency, Kwanza. However the court may enforce it in its foreign currency. When doing so, the court has the power to convert it to the local currency in order to calculate the amount of Angolan Justice Tax levied on legal proceedings, but only to that extent.



Interest

The foreign judgment will be enforced together with any interest owing in terms of the judgment. In addition, interest under Angolan law will commence to run from the date of enforcement to the date of payment of the judgment amount.

Merits

An Angolan court will not review the merits of the case giving rise to the foreign judgment.

Limitation

A plaintiff has 20 years from the date of the judgment within which to enforce it.

Security for Costs

The Angolan Court is not empowered to grant security for costs on any basis.

ENFORCEMENT OF FOREIGN ARBITRAL AWARDS**Relevant laws and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards**

Angola acceded to the New York Convention in August 2016 by Resolution 38/16 passed by the Angolan Parliament and by the Adhesion Charter n.º 10/16 on December 19 2016. The accession is subject to the reservation that only awards emanating from countries which are party to the Convention, and as specifically designated by Angola, may be enforced.

Other applicable laws are the Enforcement of Arbitral Awards Law 16/03 (Voluntary Arbitration) and the Civil Procedure Code of Angola.

Requirements for Enforcement

Once the Convention is adopted into Angolan domestic law, it is expected that the usual requirements for enforcement under the Convention will apply, namely:

- The plaintiff will be required to provide to the court the original arbitration agreement and the award, or certified copies of them. If these documents are in a language other than Portuguese, they are required to be translated into Portuguese;

- The award must not be contrary to Angolan public policy;
- The parties to the arbitration agreement must have had capacity to contract under the governing law and the agreements themselves must be valid under the governing law;
- The defendant must have received notice of the arbitrator's appointment or of the proceedings and must have been able to present his case;
- The award must deal with disputes which fall within the reference to arbitration;
- The constitution of the arbitration tribunal and the proceedings must be in accordance with the relevant arbitration agreement or with the law of the country in which the arbitration took place;
- The award must be binding on the parties and must not have been set aside or suspended by a competent authority of the country in which the award was made.

Procedure

Once the Convention has been adopted into Angolan domestic law, foreign arbitral awards will be enforced after the plaintiff has applied to the court for enforcement in terms of the rules under the Procedural Civil Code. The plaintiff will be required to initiate execution proceedings in the provincial court having jurisdiction. The court will notify the defendant and require him to identify the assets to be sold in order to satisfy the enforced award.

Limitation

A plaintiff armed with a foreign arbitral award has 20 years from the date of the granting of the award in which to enforce a foreign award in Angola.

How long will Enforcement take?

Enforcement will take between one to three years.

Security for Costs

The Angolan courts are not empowered to order security for costs.

