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ENFORCEMENT AND REGISTRATION OF AN UKRAINIAN COURT JUDGMENT IN THE REPUBLIC OF CYPRUS AND POSSIBILITY OF OBTAINING INTERIM RELIEF IN AID OF EXECUTION

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1) Legal basis for recognition and enforcement of an Ukrainian Court Judgment:

The Bilateral Treaty between the Republic of Cyprus and Ukraine for Mutual Assistance on Civil and Criminal Matters (Law 8 (III/2005)) (“the Treaty”).

2) The scope of the Treaty as to Recognition and Enforcement:

2.1 court decisions on civil matters, including family matters;

2.2 court decisions on criminal matters concerning damages; and

2.3 amicable settlements approved by Court in civil matters.

3) Conditions of Recognition and Enforcement (Article 21)

A decision shall be recognised and enforced, provided that:

- a) It is final and if it is enforceable by means of execution, under the law of the Contracting Party in the territory of which it was given;
- b) In the case of a decision given in the absence of the defendant, he was duly notified on the institution of proceedings and the place, date and time of the hearing in accordance with the law of the Contracting Party in the territory of which the decision was given;
- c) No decision, which became final, was earlier given on the same subject matter between the same parties by a court of the requested Contracting Party;
- d) Proceedings between the same parties on the same subject-matter were not instituted before a court of the requested Contracting party before the proceedings in which the decision in question was given;
- e) The recognition or enforcement of the decision would not be contrary to the public order of the requested Contracting Party;
- f) The decision or its effects would not be contrary to the fundamental principles and any law of the requested Contracting Party;
- g) The decision is not given by a court without jurisdiction according to the provisions of Article 17.

4) Application for Recognition and Enforcement (Article 22)

- The application for recognition and enforcement of a decision may be submitted by a party directly to the Court of the requested country or to the court of the contracting party which issued the decision, in order to transmit same to competent authority provided in the Treaty.
- The application for recognition and enforcement shall be accompanied by:
 - i. A certified copy of the decision including a document which states that it is a final enforceable decision (i.e. the documents may be an expert opinion from an Ukrainian lawyer). The certified copy of the decision shall be apostilled to avoid risks of dismissal of the application.
 - ii. Confirmation that the party against whom the decision was issued was duly notified or served with the Court proceedings etc.
 - iii. Certified translation of the decision into the language of the requested country (its better the translation to be effected by the State body of Press & Information office of the Republic of Cyprus).

5) Procedure (Article 23)

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6) Jurisdictional problems and method of over-coming same

- Procedural Law 121 (1)/ 2000 for recognition enforcement of foreign judgments (court judgment and arbitral awards).
- Only foreign judgments having either a judgment creditor or a judgment debtor residing in Cyprus or both of them residing in Cyprus, may be recognised and enforced.
- You shall be proactive.
- Assign the Claim or Cause of Action, before filing of Court or Arbitral proceedings to a Cyprus Company (SPV) in order to overcome the jurisdictional problem in the Enforcement Proceedings.

7) Possibility of obtaining Interim Relief in the context of an Application for Registration and Enforcement of a Foreign Judgment

- There is jurisdiction of Cyprus Courts to grant such interim relief in aid and in support of the execution of such foreign judgment.
- Types of Interim Relief:
 - a) Freezing orders, blocking assets held by the judgment debtor;
 - b) Chabra injunctions, blocking assets beneficially owned by judgment debtor, but held into the name of third parties;
 - c) Discovery or Norwich Pharmacal orders, ordering third parties (Banks, Service providers etc.) to disclose information and documents in order to assist the Claimant, to prove and plead his case, to trace assets, to identify other wrongdoers etc.;
 - d) Gagging orders, blocking a third party (i.e. Bank, Service provider) not to alert the defendant, about the commencement of the legal proceedings by the Claimant;
 - e) Appointment of an interim receiver to assist in the preservation of the assets blocked by an injunction; and
 - f) Appointment of a receiver by way of equitable execution, in order to assist in the execution of the judgment, against the assets, which are beneficially owned by the judgment debtor.

THANK YOU

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