

Enforcement of Foreign Judgments in Jordan

Samer Al Zuriekat - Partner, Head of Litigation - Jordan - Litigation / Insurance / Employment and Incentives / Legislative Drafting / Real Estate / Construction and Infrastructure
s.alzuriekat@tamimi.com - Amman

However, pursuant to a recent ruling by the Jordanian Court of Cassation, certain judgments issued by foreign religious courts may now have a greater chance of being enforced provided that certain conditions are met.

Summary of facts:

- The claimant filed a lawsuit against the defendant requesting the execution of a foreign Judgment in Jordan, obligating the latter to pay 941,904,600 Jordanian Dinars.
- The foreign Judgment was rendered by the Jeddah religious courts in the Kingdom of Saudi Arabia.

Procedural History:

- The court of first instance ruled in favor of executing the foreign judgment in Jordan.
- The court of appeal ruled against the executing of the foreign judgment in Jordan.
- The court of cassation ruled in favor of the court of first instance judgment.

The court of cassation

A number of points were considered by the Court of Cassation including:

- Whether the claimants held a valid power of attorney (it was not executed when the claimants were in Jordan).
- Whether there was a violation of article 102 of the Jordanian Constitution of 1952 which provides that:

“The Civil Courts in the Hashemite Kingdom of Jordan shall have jurisdiction over all persons in all matters, civil and criminal, including cases brought by or against the Government, except those matters in respect of which jurisdiction is vested in Religious or Special Courts in accordance with the provisions of the present Constitution or any other legislation in force”

- Whether there was a breach of article 25/B of the Riyadh Convention on Judicial Co-operation.
- Whether there was a breach of articles 99 and 27 of the Jordanian Constitution.

The Decision

After reviewing all the facts provided by both parties to the case, the Court of Cassation ruled in favour of upholding the decision issued by the Court of First Instance in that they ruled in favour of executing the foreign judgment in Jordan.

Furthermore, the Court of Cassation’s ruling in favour of executing the Saudi judgment in Jordan set a new precedent in that it defied the provision of Article 99 of the Constitution. Article 99 provides that judgments issued by religious courts outside of Jordan are not enforceable in Jordan. However, the Court of Cassation held that the foreign judgment had to be enforced in Jordan as the same was, after being issued by the Religious Saudi Courts in the Kingdom of Saudi Arabia, certified by the Court of Cassation in Saudi Arabia and was awarded a preemptory status.

In addition, the Court of Cassation found that the decision had been certified by all required parties and bodies which meant that in accordance with Article 34, in addition to Article 25/A, of the aforementioned Riyadh Agreement, the decision issued by the foreign Court of Cassation could be enforced in Jordan.

Furthermore, the Court of Cassation provided in its decision that the courts that are requested to look into the enforceability of foreign judgments are not supposed to look into the merits of the case or alter the basis of its decision. It went on to determine that the tasks of the court were restricted to reviewing the basis of its enforceability in Jordan. Additionally, the Court of Cassation provided that in accordance with the Jordanian Law for the Implementation of Foreign Judgments No. 8 for the year 1952, Jordanian courts may reject the implementation of foreign judgments in Jordan under certain conditions, none of which were applicable to the case at hand.