

# The Challenges Of Enforcing Foreign Judgments—The Irish Example

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The enforcement of foreign judgments is a challenge, especially if they emanate from the US because there is no automatic recognition. How Ireland treats enforcement efforts of foreign judgments is an excellent example of the challenges faced by plaintiff's counsel.

The enforcement of non-EU judgments in Ireland is whether there is a "solid practical benefit" derived from the Irish proceeding. And, the absence of assets (or of a real possibility that assets will come into Ireland) is likely to support the lack of a "solid practical benefit".

In *Albaniabeg Ambient Shpk v. Enel SpA and Enelpower SpA*, (High Court, 8 March 2016, McDermott J), an Albanian judgment was obtained against two Italian companies and enforcement proceedings were brought in several jurisdictions, including Ireland. The Irish court had to determine whether the plaintiff had a good arguable case and whether the case was a proper one to determine in Ireland.

To determine if there was a good arguable case, the court had to decide whether defendants had assets within the jurisdiction because absent assets in Ireland the proceedings wouldn't serve any useful purpose. The plaintiff's principal argument was that one of the defendants had listed bonds on the Irish Stock Exchange. The court concluded that listing of a bond in Ireland doesn't mean that any funds raised would ever be in or flow through Ireland. Accordingly, there wouldn't be any resultant assets in Ireland derived from the bonds. The plaintiff also argued that an Italian subsidiary of one of the defendants had an Irish branch. The court was not persuaded as there still would be a question of whether the subsidiary, which was not a defendant, would have assets capable of being enforced against. The court found that it was unclear that enforcement against the subsidiary could be achieved.

Therefore, the court decided that the plaintiff could not demonstrate that any solid or practical benefit would ensue if the judgment was recognized and enforced in Ireland. The plaintiff had not demonstrated that the defendants had any assets within the jurisdiction nor could prove any real possibility of any assets coming into the jurisdiction. The proceedings, the court held, served no useful purpose.

Hence, an Ireland, judgment collection is tied to assets in the jurisdiction and the "solid practical

benefit" of recovery. Plaintiff's counsel should not just rush to judgment recovery there or anywhere else.

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