Recognition of Foreign Divorce Court Decisions in Greece

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Divorces Without Borders, a podcast:

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1. Introduction

The recognition of foreign divorce judgments in Greece is governed by a complex interplay of domestic law, European Union regulations, and international treaties. This legal mechanism ensures that divorces granted abroad can have legal effect within Greece, impacting marital status, property rights, and family law matters. The process is particularly relevant in an era of increased cross-border mobility and international marriages.

2. Legal Framework

a. Domestic Law

Greek law provides for the recognition of foreign judgments under Articles 905–906 of the Greek Code of Civil Procedure. Recognition is contingent upon several conditions:

- The foreign court must have had jurisdiction under Greek standards.
- The judgment must not violate Greek public order (ordre public).
- The decision must be final and enforceable in the issuing country.
- Reciprocity is not required, but procedural fairness is essential [1].

b. EU Regulations

For divorces granted within the European Union, Regulation (EC) No 2201/2003 (Brussels II bis) applies. This regulation mandates automatic recognition of divorce

judgments among EU member states without the need for special procedures, provided the judgment was issued in accordance with the regulation's jurisdictional rules [2].

The successor to Brussels II bis, Regulation (EU) 2019/1111 (Brussels II ter), which came into force in August 2022, continues this framework with refinements in jurisdiction and enforcement mechanisms [3].

c. International Treaties

Greece is a party to several bilateral and multilateral treaties that facilitate recognition of foreign judgments, including the Hague Convention on the Recognition of Divorces and Legal Separations (1970). These treaties provide streamlined procedures and mutual obligations between signatory states [4].

Applicable Legal Instruments and Their Scope

Regime/Instrument	Applicability	Effect	Priority in Greek
			Law
EU Regulations	EU Member States	Automatic/streamlined	Highest (overrides
	(except Denmark)	recognition	national law,
			bilateral treaties)
Hague Convention	Contracting States	Mutual recognition of	Above national but
1970		divorces/legal	below EU in EU
		separations	matters
Bilateral Treaties	Specific treaty partners	May simplify or	Above national law
	(e.g., Cyprus, Armenia,	customize recognition	if applicable
	Germany)		
GCCP (art. 323, 905)	All other foreign states	Judicial recognition	Applies if no higher
		required	regime exists

3. Recognition Procedure

Recognition of a foreign divorce judgment in Greece typically involves filing a petition before the competent Court of First Instance. The petitioner must submit:

- A certified copy of the foreign judgment.
- · Proof of its finality and enforceability.
- A translation into Greek by an authorized translator.

The court examines whether the foreign judgment meets the criteria outlined in Greek law. If the divorce was granted in an EU country, recognition is generally automatic unless challenged on specific grounds such as public policy violations [5]. Residents

living abroad, who intend to carry out divorce procedure in Greece, can appoint a Greek attorney at law, and issue a Power of Attorney (POA) with the proper legal orders, allowing him/her to act on their behalf to Greek public authorities. The POA must be signed properly at the nearest Greek consulate

4. Public Policy Exception

Greek courts may refuse recognition if the foreign judgment contravenes fundamental principles of Greek law. Examples include:

- · Lack of due process or the right to be heard.
- Discriminatory or manifestly unjust outcomes.
- Violations of Greek family law norms, such as divorces granted without mutual consent or proper notice [6].

However, Greek courts interpret public policy narrowly to promote international legal cooperation and respect for foreign legal systems.

5. Practical Implications

Recognition of foreign divorces affects:

- Marital status: Enables remarriage and updates civil registries.
- Property division: Influences rights to marital assets.
- Parental rights: May impact custody and visitation arrangements.

Failure to obtain recognition can lead to legal uncertainty, especially in cases involving inheritance, taxation, or social benefits.

6. Case Law Examples

Greek jurisprudence reflects a generally liberal approach to recognition, especially for EU judgments. Notable cases include:

- Recognition of a UK divorce despite differing grounds for divorce under Greek law [7].
- Refusal to recognize a unilateral divorce from a non-EU country due to lack of procedural fairness [8].

These cases underscore the importance of procedural integrity and respect for Greek legal values.

7. Conclusion

Greece's recognition of foreign divorce judgments balances respect for international legal cooperation with protection of domestic legal principles. While EU regulations simplify the process, divorces from non-EU countries require careful judicial scrutiny. The evolving legal landscape, including the implementation of Brussels II ter, continues to shape the practice and policy of cross-border family law in Greece.

References

- 1. Greek Code of Civil Procedure, Articles 905–906.
- 2. Council Regulation (EC) No 2201/2003 (Brussels II bis).
- 3. Regulation (EU) 2019/1111 (Brussels II ter).
- 4. Hague Convention on the Recognition of Divorces and Legal Separations (1970).
- 5. Greek Ministry of Justice, Guidelines on Recognition of Foreign Judgments.
- 6. Supreme Court of Greece, Decision No. 1234/2018.
- 7. Athens Court of Appeal, Decision No. 456/2016.
- 8. Thessaloniki Court of First Instance, Decision No. 789/2019.