

EXÉCUTION DES JUGEMENTS
ENFORCEMENT OF JUDGMENTS

Liste récapitulative commentée – Annexe I
Annotated Checklist – Annex I

janvier / January 2013



**LISTE RÉCAPITULATIVE COMMENTÉE DES QUESTIONS À ABORDER PAR LE
GROUPE DE TRAVAIL SUR LA RECONNAISSANCE ET L'EXÉCUTION DES
JUGEMENTS**

GLOSSAIRE

établi par le Bureau Permanent

* * *

**ANNOTATED CHECKLIST OF ISSUES TO BE DISCUSSED BY THE WORKING GROUP
ON RECOGNITION AND ENFORCEMENT OF JUDGMENTS**

GLOSSARY

prepared by the Permanent Bureau

*Document à l'attention du Groupe de travail
(réunion de février 2013)*

*Document for the attention of the Working Group
(meeting of February 2013)*

Annex I - Glossary

1. Instruments and documents cited

a. Hague Conference instruments

Hague Conventions:

“Enforcement Convention”:

Hague Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, available on the Hague Conference website at < <http://www.hcch.net> > under “Conventions” then “16. Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters”.

“Supplementary Protocol”:

Supplementary Protocol of 1 February 1971 to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, available on the Hague Conference website at < <http://www.hcch.net> > under “Conventions” then “17. Supplementary Protocol of 1 February 1971 to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters”.

“Child Protection Convention”:

Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, available on the Hague Conference website at < <http://www.hcch.net> > under “Conventions” then “34. Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children”.

“Choice of Court Convention”:

Hague Convention of 30 June 2005 on Choice of Court Agreements, available on the Hague Conference website at < <http://www.hcch.net> > under “Conventions” then “37. Convention of 30 June 2005 on Choice of Court Agreements”.

“Child Support Convention”:

Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance, available on the Hague Conference website at < <http://www.hcch.net> > under “Conventions” then “38. Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance”.

Preparation of a preliminary draft convention:

“Preliminary Draft Convention”:

“Preliminary draft Convention on jurisdiction and foreign judgments in civil and commercial matters”, adopted by the Special Commission, Preliminary Document No 11 of August 2000 for the attention of the Nineteenth Session of June 2001, available on the Hague Conference website at < <http://www.hcch.net> > under “Specialised Sections” then “Judgments Project” and “Preparation of a preliminary draft convention”.

"Interim Text":

"Summary of the Outcome of the Discussion in Commission II of the First Part of the Diplomatic Conference 6-20 June 2001", prepared by the Permanent Bureau and the Co-reporters, available on the Hague Conference website at < <http://www.hcch.net> > under "Specialised Sections" then "Judgments Project" and "Response to the preliminary draft convention". The Interim Text consolidates the Working Documents submitted during the Nineteenth Session that proposed amendments to the Preliminary Draft Convention.

b. Other international and regional instruments

"Montevideo Convention":

Inter-American Convention of 8 May 1979 on Extraterritorial Validity of Foreign Judgments and Arbitral Awards, available on the OAS website at < <http://www.oas.org> > under "Documents" then "Treaties and Agreements" then "Multilateral Treaties" then "By Year (under "Text of the Treaties")" then "1979" (B-41).

"Riyadh Arab Agreement":

Riyadh Arab Agreement of 6 April 1983 for Judicial Cooperation, available on the UNHCR website at < <http://unhcr.org/refworld/docid/3ae6b38d8.html> >.

"La Paz Convention":

Inter-American Convention of 24 May 1984 on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments, available on the OAS website under "Documents" then "Treaties and Agreements" then "Multilateral Treaties" then "By Year (under "Text of the Treaties")" then "1984" (B-50).

"Las Leñas Protocol":

Las Leñas Protocol of 27 June 1992 on Judicial Cooperation and Assistance in Civil, Commercial, Labour and Administrative Matters, available on the website of MERCOSUR at <<http://www.mercosur.int/>> under "Normativa" then "Tratados, Protocolos y Acuerdos" then "Tratados, Protocolos y Acuerdos Depositados en Paraguay" (No.3) (only in Spanish and Portuguese). The English translation of the Las Leñas Protocol is available from the UN *Recueil des Traités*, Vol. 2145, p. 421, at < <http://treaties.un.org/doc/Publication/UNTS/Volume%202145/v2145.pdf> >.

"Buenos Aires Protocol":

Buenos Aires Protocol of 5 August 1994 on International Jurisdiction in Contractual Matters, MERCOSUR/CMC/DEC. No. 01/94, available on the website of MERCOSUR at <<http://www.mercosur.int/>> under "Normativa" then "Tratados, Protocolos y Acuerdos" then "Tratados, Protocolos y Acuerdos Depositados en Paraguay" (No 5) (only in Spanish and Portuguese). The English translation of the Buenos Aires Protocol is available on the OAS website at < http://www.sice.oas.org/trade/mrcsrs/decisions/AN0194_e.asp >.

"Brussels I Regulation":

Council Regulation (EC) 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [2001] OJ L 12/1, available on the EU website at < <http://europa.eu> >, under "Find legislation" (under "EU law") then "Summaries of EU legislation" (under "Legislation in force") then "Justice, freedom and security" then "Judicial cooperation in civil matters" (under "Mutual recognition and enforcement of judgments").

"Lugano Convention":

Convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, available on the website of the Federal Department of Justice and Police of Switzerland at
< http://www.ejpd.admin.ch/content/ejpd/en/home/themen/wirtschaft/ref_internationales_privatrecht/ref_lugue2007.html >.

c. Other instruments

"ALI Proposed Statute":

American Law Institute, *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute* (2006).

d. Hague Conference documents

"Fragistas Report":

Ch.N. Fragistas, "Explanatory Report on the 1971 Hague Judgments Convention", in *Actes et documents de la Session extraordinaire (1966), Exécution des Jugements*, The Hague, *Imprimerie Nationale*, 1969, p. 360.

"1992 Note":

"Some reflections of the Permanent Bureau on a general convention on enforcement of judgments", Preliminary Document No 17 of May 1992 for the attention of the Special Commission of June 1992, in *Proceedings of the Seventeenth Session (1993)*, Tome I, *Miscellaneous matters/Centenary*, The Hague, SDU, 1995, p. 231, also available on the Hague Conference website at < <http://www.hcch.net> >, under "Specialised Sections" then "Judgments Project" and "The originating proposal".

"2010 Note":

"Continuation of the Judgments Project", submitted by the Permanent Bureau, Preliminary Document No 14 of February 2010 for the attention of the Council of April 2010 on General Affairs and Policy of the Conference, available on the Hague Conference Website at < <http://www.hcch.net> > under "Specialised Sections" then "Judgments Project" and "Recent developments".

"2012 Note":

"Ongoing work on international litigation and possible continuation of the Judgments Project", submitted by the Permanent Bureau, Preliminary Document No 5 of March 2012 for the attention of the Council of April 2012 on General Affairs and Policy of the Conference, available on the Hague Conference Website at < <http://www.hcch.net> > under "Specialised Sections" then "Judgments Project" and "Recent developments".

"Background Note":

"Background Note" on Enforcement of Judgments, submitted by the Permanent Bureau for the attention of the Expert Group meeting of 12-14 April 2012, available on the Hague Conference website via an hidden link:
< <http://www.hcch.net/upload/hidden/2012/jdgm-backgr.pdf> >.

"Conclusions and Recommendations of the 2012 Expert Group":

"Conclusions and Recommendations of the Expert Group on Possible Future Work on Cross-border Litigation in Civil and Commercial Matters", submitted by the Permanent Bureau, Working Document No 2 of April 2012 for the attention of the Council of April 2012 on General Affairs and Policy of the Conference, available on the Hague Conference Website at < <http://www.hcch.net> > under "Specialised Sections" then "Judgments Project" and "Recent developments".

“Hartley-Dogauchi Report”:

T. Hartley and M. Dogauchi, “Explanatory Report on the 2005 Hague Choice of Court Agreements Convention”, *Proceedings of the Twentieth Session (2005)*, Tome III, *Choice of Court*, Antwerp – Oxford – Portland, Intersentia, 2010, also available on the Hague Conference website at < <http://www.hcch.net> >, under “Conventions”, “37. Convention of 30 June 2005 on Choice of Court Agreements” then “HCCH Publications”.

“Nygh-Pocar Report”:

“Report of the Special Commission by Peter Nygh and Fausto Pocar”, adopted by the Special Commission, Preliminary Document No 11 of August 2000 for the attention of the Nineteenth Session of June 2001, available on the Hague Conference Website at < <http://www.hcch.net> > under “Specialised Sections” then “Judgments Project” and “Preparation of a preliminary draft convention”.

2. Terminology used

“Court addressed”:

The court which is asked to recognize or enforce a judgment.

“Court of origin”: The court which rendered the judgment.

“Ground for refusal”:

A circumstance in which the recognition or enforcement of a judgment otherwise entitled to recognition and enforcement may be refused.

“Jurisdictional filters”:

Also called “indirect grounds of jurisdiction”. Criteria for determining whether a judgment is entitled to recognition and enforcement by reference to the ground of jurisdiction on which the judgment was based.

“Recognition”:

The Hartley-Dogauchi Report defines “recognition” as the court addressed giving effect to the determination of the legal rights and obligations made by the court of origin (para 170).

“Enforcement”:

The Hartley-Dogauchi Report defines “enforcement” as the application of the legal procedures of the court addressed to ensure that the defendant obeys the judgment given by the court of origin (para 170).

“State addressed”:

The State in which the court addressed is situated. Equivalent to the term “requested State” in the 2005 Convention on Choice of Court Agreements.

“State of origin”:

The State in which the court of origin is situated.