

## **Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters**

Increased cross-border dealings inevitably lead to the risk of more disputes involving foreign elements. Recognition and enforcement of foreign judgments has proven to be challenging, if not impossible. Diverse laws and practices around the globe have resulted in uncertainty and unpredictability as to whether and to what extent relief granted in one place can be obtained in another. This is often accompanied by expensive legal advice and added risks for the parties, hindering the flow of international trade and investment, and, ultimately, denying justice. A common framework for recognition and enforcement of foreign judgments at the international level is essential.

The 2019 Judgments Convention facilitates the circulation of judgments among its Contracting Parties. By establishing conditions for recognition and enforcement, and possible grounds for their refusal, the Convention provides certainty and predictability for those operating in transnational civil or commercial situations. This ensures that a successful party will have a meaningful judgment, enhancing their access to justice by reducing timeframes, costs, and risks. It also allows a plaintiff to make an informed decision as to where to initiate proceedings, taking into account where a judgment will be recognised and enforced.

### **Principal features of the Convention**

#### ***Scope of the Convention***

The Convention applies to the recognition and enforcement of judgments in civil or commercial matters (Art. 1), including consumer and individual employment contracts. The Convention excludes certain matters from its scope, such as the status and legal capacity of natural persons, family law matters, insolvency, privacy, intellectual property, and certain anti-trust matters (Art. 2(1)). In addition, it applies neither to arbitration and related proceedings (Art. 2(3)), nor interim measures of protection (Art. 3(1)(b)). Contracting Parties may also declare that the Convention does not apply to other specific matters (Art. 18(1)).

#### ***Recognising and enforcing judgments***

The Convention establishes a common framework under which judgments from one Contracting Party will be recognised and / or enforced in another if they are eligible for circulation and the grounds for refusal do not apply.

The Convention provides a list of criteria to be used by the court addressed to ascertain whether the judgment is eligible for recognition and enforcement (sometimes referred to as “indirect grounds of jurisdiction”). Therefore, the Convention does not provide rules of direct jurisdiction applicable in the court of origin or in the court addressed.

#### ***Conditions for recognition and enforcement***

A judgment will be eligible for circulation under the Convention if any of the criteria listed in Article 5(1) are satisfied. An exclusive basis is provided in Article 6 for judgments ruled on rights *in rem* in immovable property, which would be eligible for circulation if, and only if, the immovable property is situated in the State of origin.

These are minimum requirements for recognition and enforcement; that is, the Convention does not prevent or limit the recognition and enforcement of judgments under national law, bilateral, regional or other international instruments (Arts 15 and 23), with the exception of Article 6. In this sense, the Convention provides a “floor” rather than a “ceiling” in the recognition and enforcement of foreign judgments.

### ***Possible grounds for refusal***

Recognition and enforcement can only be refused on the basis of the grounds listed in the Convention. These grounds for refusal are not mandatory, allowing the court addressed to exercise discretion on whether to refuse. The grounds listed in Article 7 are commonly accepted across jurisdictions, including public policy, due process, and inconsistent judgments.

### **Additional resources**

The [Judgments Section](#) of the HCCH website contains the latest information about the Judgments Convention. This includes:

- Text of the Convention
- Status table of Contracting Parties
- Explanatory Report on the Judgments Convention
- Recommended Model Form