

**Round table: “Harmonising Legislation – The Need for Fair Principles for Enforcement: the Global Code of Enforcement”**

**Questions round table Friday 5 June 9:30 – 11:30**

**1. Relationship between the Choice of Court Convention and the Judgments Project**

The Hague Convention of 30 June 2005 on Choice of Court Agreements ("Choice of Court Convention") aims at ensuring the effectiveness of choice of court agreements (also known as "forum selection clauses") between parties to international commercial transactions. The Convention has been signed by Mexico, the European Union, Singapore and the United States of America. Mexico acceded the Convention on 26 September 2007. On 4 December 2014, the Council of the European Union (EU) adopted the decision on the approval of the Choice of Court Convention on behalf of the European Union. The deposit of the instrument of approval is expected to take place next week, more precisely on 11 June in The Hague. If confirmed, the Convention will enter into force on October 1<sup>st</sup> 2015. All EU Member States (except Denmark), as well as Mexico, will then be bound by the Convention (almost 30 Contracting States). This Convention is the first major building block for a global legal framework dealing with court judgments in civil and commercial matters. Nevertheless, it does not deal with questions of jurisdiction and recognition and enforcement of judgments arising when the parties have not made an (exclusive) choice of court agreement for the purpose of deciding disputes which have arisen or may arise in connection with a particular relationship. The Judgments Project was therefore relaunched in 2012 with the aim of developing an additional general Convention on (possibly jurisdiction) and enforcement of judgments (the future Judgments Convention). With respect to the relationship between the Choice of Court Convention and the future Judgments Convention, the Choice of Court Convention should prevail over the future Judgments Convention as *lex specialis*. Indeed, the Choice of Court Convention focuses only on a particular procedural situation, namely the choice of court, whereas the future Judgments Convention deals more broadly with the recognition and enforcement of judgments in civil and commercial matters.

**2. Relationship between the Global Code of Execution and the future Judgments Convention**

The Global Code of Enforcement is an important tool in order to facilitate cross-border enforcement of judgments. It will certainly be used as a reference for the Working Group and the Special Commission in further stages of the Judgments project (e.g. as to rules on the recognition and enforcement of authentic instruments and the use of new technologies, etc.). The two instruments will harmoniously complement each other. As the gatekeeper for legal titles across borders, the future Judgments Convention focuses on the mechanism that enables the recognition and enforcement of foreign judgments (grounds of refusal of recognition and enforcement, documents to be produced for the recognition and enforcement, etc.). Subsequently, the Global Code of Execution sets out common standards on essential aspects of the enforcement abroad (costs and speed of enforcement, legal hours of enforcement, service of the enforceable title and acts of enforcement, etc.). Besides, the Global Code of Enforcement has a wider scope of application than the future Judgments Convention (notably, the Code also applies to cases where the recognition and enforcement takes place in the same jurisdiction where the judgment was rendered and also to arbitral awards).

In summary, the Global Code of Execution and the future Judgments Convention will provide essential components for a sound international legal framework on recognition and enforcement.