



Council on General Affairs and Policy – March 2020

Document	Preliminary Document <input checked="" type="checkbox"/> Information Document <input type="checkbox"/>	Prel Doc 4 of December 2019
Title	Recommended Form under the <i>Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters</i>	
Author	Permanent Bureau	
Agenda item	Item III-6	
Mandate(s)	Mandate of Commission II on General Affairs and Policy of the Twenty-Second Session	
Objective	To present the mandate of Commission II on General Affairs and Policy regarding the Recommended Form and to invite CGAP to approve the Recommended Form	
Action to be taken	For Approval <input checked="" type="checkbox"/> For Decision <input type="checkbox"/> For Information <input type="checkbox"/>	
Annexes	Annex I: Revised draft Recommended Form (Clean) Annex II: Revised draft Recommended Form with comments (TC) Annex III: Working Proposal No 3 from the Permanent Bureau, Commission II on General Affairs and Policy of the Twenty-Second Session	
Related documents		

1. The *Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters* (hereinafter, “HCCH 2019 Judgments Convention”) was successfully adopted on 2 July 2019, during the Twenty-Second Session of the HCCH between 18 June and 2 July 2019, in The Hague.

2. According to Article 12(3) of the HCCH 2019 Judgments Convention, when seeking recognition or enforcement of a judgment under the Convention, a party may use a form recommended and published by the HCCH. The form is to be completed by a court of the State of origin or by an officer of the court. While this form, like the one recommended under the HCCH *Convention of 30 June 2005 on Choice of Court Agreements*, is not binding in nature, it will assist the court addressed in dealing with the foreign judgment under the Convention.

3. A draft of this form was initially prepared by the Permanent Bureau (hereinafter, “PB”) for deliberation at the Twenty-Second Session.¹ It was then revised taking into account the comments raised during the Session;² revisions were reflected in Working Document No 93 REV. As pointed out by the Drafting Committee, and based on further exchanges in the plenary, it was considered that the draft Recommended Form could benefit from a further revision.³

4. Commission II on General Affairs and Policy (hereinafter, “Commission II”) met during the Twenty-Second Session, and mandated the PB to revise, in consultation with Members, the draft Recommended Form with a view to submitting the revised draft Recommended Form to CGAP for approval in March 2020.⁴

5. In line with the above mandate, the PB examined the forms accompanying international or regional instruments in the field of recognition and enforcement of foreign judgments, including the European Union Regulation on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (recast) (Brussels Ia Regulation),⁵ and circulated a further revised draft Recommended Form for consultation on 30 September 2019 with a deadline for responding by 1 November 2019.

6. Some Members submitted comments, which are available on the Secure Portal for reference. In the process of addressing these comments, the PB was in constant consultation with the Chair of the Drafting Committee, the Chair of the Commission on Judgments, and Members interested in this particular issue. Taking into consideration how such a form may be used across very different jurisdictions and with the goal of ensuring its simplicity and promoting its practical use in facilitating recognition and enforcement, as well as avoiding undue prominence to questions of substance under the HCCH 2019 Judgments Convention, the PB incorporated, where appropriate and relevant, the comments into the attached revised draft Recommended Form (see Annex I: a clean version; and Annex II: a track traced version comparing with the draft Recommended Form circulated on 30 September 2019, with brief explanations), which it submits herewith to CGAP for approval.

¹ Work. Doc. No 3 Rev Rev of June 2019, “Draft Recommended Form” (Twenty-Second Session on the Recognition and Enforcement of Foreign Judgments (18 June – 2 July 2019)) (available on the Secure Portal of the HCCH website at < www.hcch.net >).

² Minutes of Commission I on Judgments of the Twenty-Second Session on the Recognition and Enforcement of Foreign Judgments (18 June – 2 July 2019), Minutes No 14, paras 52-72 (available on the Secure Portal of the HCCH website at < www.hcch.net >).

³ Minutes of Commission I on Judgments of the Twenty-Second Session on the Recognition and Enforcement of Foreign Judgments (18 June – 2 July 2019), Minutes No 19, paras 122-127 (available on the Secure Portal of the HCCH website at < www.hcch.net >).

⁴ “Working Proposal No 3 from the Permanent Bureau”, Commission II on General Affairs and Policy of the Twenty-Second Session on the Recognition and Enforcement of Foreign Judgments (18 June – 2 July 2019) (see Annex III below) (available on the Secure Portal of the HCCH website at < www.hcch.net >).

⁵ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

7. Pursuant to the Commission II mandate, the PB invites CGAP to approve the revised draft Recommended Form. Upon approval, the Recommended Form will be used under the HCCH 2019 Judgments Convention. In spite of the non-binding nature of the Form, courts of Contracting States to the Convention are encouraged to utilise the Recommended Form with a view to facilitating the recognition and enforcement process.

ANNEX

**RECOMMENDED FORM
UNDER THE CONVENTION OF 2 JULY 2019 ON THE
RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS
IN CIVIL OR COMMERCIAL MATTERS
("THE CONVENTION")**

Recommended form containing information about the existence, issuance and content of a judgment given by the court of origin for the purposes of recognition and enforcement in another Contracting State under the Convention

1. DETAILS OF THE COURT OF ORIGIN

Name of Court
City (and state / province, if applicable)
Country

2. COURT OF ORIGIN CASE REFERENCE / DOCKET NUMBER.....

3. PARTIES

3.1 Contact information of the claimant(s)

Claimant(s):
Address:
Telephone:
Fax (if applicable):
E-mail (if applicable):

3.2 Contact information of the defendant(s)

Defendant(s):
Address:
Telephone:
Fax (if applicable):
E-mail (if applicable):

4. JUDGMENT

4.1 The proceedings were instituted (Art. 16) on (*dd/mm/yyyy*)

4.2 The judgment (Art. 3(1)(b)) was given on (*dd/mm/yyyy*)

4.3 The judgment was given by default (Art. 12(1)(b)):

- YES
- NO

5. THE EFFECT OF THE JUDGMENT

5.1 This judgment has effect in the State of origin (Art. 12(1)(c)):

- YES (Art. 4(3)) NO
- YES, but only the following part:
- Unable to confirm

- 5.2 This judgment is enforceable in the State of origin (Art. 12(1)(c)):
- YES (Art. 4(3)) NO
- YES, but only the following part:
- Unable to confirm
- 5.3 If there is more than one person who is held liable, this judgment is enforceable against:
- All of them
- The following person(s):
- 5.4 This judgment (or a part thereof) is currently the subject of review in the State of origin:
- YES (please specify the nature and status of such review) (Art. 4(4)):
- NO
- Unable to confirm
- 5.5 The time limit for seeking ordinary review of this judgment has expired:
- YES (Art. 4(4)) NO
- Unable to confirm

6. JUDICIAL SETTLEMENT (*transaction judiciaire*) AND THE EFFECT OF THE JUDICIAL SETTLEMENT, WHERE APPLICABLE

- 6.1 The judicial settlement (Art. 11) was approved by the court, or was concluded in the course of proceedings before the court on (*dd/mm/yyyy*)
- 6.2 This judicial settlement is enforceable in the same manner as a judgment in the State of origin (Art. 11)
- YES
- YES, but only the following part:
- NO
- Unable to confirm

7. OBLIGATIONS IMPOSED BY THE JUDGMENT (OR THE JUDICIAL SETTLEMENT, WHERE APPLICABLE)

According to the judgment given by the Court (Art. 3(1)(b)) (or where applicable, the judicial settlement approved by the court or concluded in the course of proceedings before the court (Art. 11)),

- 7.1 the following amount of money has to be paid:
- to be paid by:
- to be paid to:

Where applicable, please indicate any relevant categories of damages, including which are exemplary or punitive damages; the currency of the award; and any prescribed terms of payment of the monetary award such as the date and amount of any instalments:

.....

- 7.2 the following non-monetary relief has to be performed:

7.3 the following costs and expenses relating to the proceedings (Art. 3(1)(b)) have to be paid:
.....

Please specify, where applicable, any amount(s) included within a monetary award but not mentioned explicitly which is / are intended to cover costs and expenses relating to the proceedings:
to be paid by:
to be paid to:

7.4 the following interest has to be paid:
to be paid by:
to be paid to:

Please specify the rate(s) of interest; the portion(s) of the award, including the part awarding cost and expenses, if applicable, to which interest applies; the date from and until which interest is computed; and any further information regarding interest that would assist the court addressed.

7.5 If more than one person has been held liable for one and the same claim, the whole amount may be collected from any one of them.

- YES (please specify to which (part of the) claim this applies to money award, interest, costs and expenses, as applicable, and the corresponding amount):
.....
- NO

8. ANY OTHER RELEVANT INFORMATION

9. Dated thisday of, 20..... at

10. Signature and / or stamp by the Court or officer of the Court:

11. CONTACT DETAILS

CONTACT PERSON IN THE COURT OF ORIGIN:
TEL.:
FAX:
E-MAIL:
CONTACT PERSON COMMUNICATION LANGUAGE(S):

* * * * *

Note that: in accordance with Article 12 of the Convention, parties seeking recognition or applying for enforcement under the Convention shall produce:

- a complete and certified copy of the judgment (Art. 12(1)(a));
- if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party (Art. 12(1)(b));
- any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin (Art. 12(1)(c));
- in the case referred to in Article 11 of the Convention, a certificate of a court (including an officer of the court) of the State of origin stating that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin (Art. 12(1)(d));
- if the above attached documents are not in an official language of the requested State, the party seeking recognition or applying for enforcement of the judgment shall provide a certified translation into an official language of the requested State, unless the law of the requested State provides otherwise (Art. 12(4)).

RECOMMENDED FORM[†]
UNDER THE CONVENTION OF 2 JULY 2019 ON THE
RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS
IN CIVIL OR COMMERCIAL MATTERS
("THE CONVENTION")

~~(Sample Recommended form confirming containing information about the existence, issuance and content of a judgment given by the court of origin for the purposes of recognition and enforcement in another Contracting State under the Convention)~~

1. DETAILS OF THE COURT OF ORIGIN

Name of Court
City (and state / province, if applicable)
Country

2. COURT OF ORIGIN CASE REFERENCE / DOCKET NUMBER

3. PARTIES

..... (PLAINTIFF(S))
v.
..... (DEFENDANT(S))

3.1 Contact information of the ~~plaintiff~~ claimant(s)

Claimant(s):
Address:
Telephone:
Fax:
Fax (if applicable):
E-mail (if applicable):

3.2 Contact information of the defendant(s)

Defendant(s):
Address:
Telephone:
Fax:
Fax (if applicable):
E-mail (if applicable):

~~4. DATE OF THE INSTITUTION OF THE PROCEEDINGS AND INFORMATION ABOUT THE JUDGMENT~~
4. JUDGMENT

4.1 The proceedings were instituted (Art. 16) on
(dd/mm/yyyy)

4.2 The judgment (Art. 3(1)(b)) was given on (dd/mm/yyyy)

[†] This Form does not replace any procedures for recognition, declaration of enforceability or registration of enforcement of the judgments, which are governed by the law of the requested State, unless the Convention provides otherwise (Art. 13(1) of the Convention).

Commented [A1]: This change was made to be in line with the term used in the Convention, e.g., Art. 19.

4.3 The judgment was given by default (Art. 12(1)(b)):

- YES (if yes, see Point 8.2)
- NO

5. AWARD DELIVERED IN THE JUDGMENT

~~This Court gave a judgment (Art. 3(1)(b)) / approved a judicial settlement (Art. 11) with the following contents:~~

~~7.6 This Court awarded the following payment of money (please indicate the amount and, where applicable, any relevant categories of damages, the currency of the award, and any prescribed terms of payment of the monetary award such as the date and amount of any instalments):~~

~~7.7 This Court awarded interest as follows (please specify the rate(s) of interest, the portion(s) of the award to which interest applies, the date from which interest is computed, and any further information regarding interest that would assist the court addressed):~~

~~7.8 This Court included within the judgment the following costs and expenses relating to the proceedings (Art. 3(1)(b)) (please specify the amounts of any explicit awards of costs and expenses and, where applicable, any amount(s) included within a monetary award intended to cover costs and expenses relating to the proceedings):~~

~~7.9 This Court awarded the following non-monetary relief (please describe the nature of such relief):~~

~~7.10 In case of multiple defendants, the amount(s) awarded can be collected:~~

- ~~from all / the following defendants jointly (please specify the defendants concerned and the amount(s) for each of these defendants):~~
- ~~from each defendant individually (please specify the total amount(s), and the amount for each individual defendant):~~

6.5. THE EFFECT OF THE JUDGMENT

5.1 This judgment has effect in the State of origin+ (Art. 12(1)(c)):

- YES (Art. 4(3)) NO
- YES, but only the following part:
- Unable to confirm

5.2 This judgment is enforceable in the State of origin+ (Art. 12(1)(c)):

- YES (Art. 4(3)) NO
- YES, but only the following part:
- Unable to confirm

5.3 If there is more than one ~~defendant~~ **person who is held liable**, this judgment is enforceable against:

- All of them
- The following **defendant** person(s):
.....

5.4 This judgment (or a part thereof) is currently the subject of review in the State of origin:

Commented [A2]: This change is made because enforcement of the judgment can be sought against claimants in the original proceedings.

- YES (please specify the nature and status of such review) (Art. 4(4)):
- NO
- Unable to confirm

5.5 The time limit for seeking ordinary review of this judgment has expired:

- YES (Art. 4(4)) NO
- Unable to confirm

Commented [A3]: This item was added to be in line with Article 4(4) of the Convention.

7. ANY OTHER RELEVANT INFORMATION

8. ATTACHMENTS

~~Attached to this Form are the documents marked in the following list (if available):~~

- ~~8.1 a complete and certified copy of the judgment (Art. 12(1)(a));~~
- ~~8.2 if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party (Art. 12(1)(b));~~
- ~~8.3 any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin (Art. 12(1)(c));~~

~~in the case referred to in Article 11 of the Convention, a certificate of a court (including an officer of the court) of the State of origin stating that the~~

Commented [A4]: Item 8 Attachments was deleted with a view to avoiding duplication and to promoting the effective use of the form. Judgments, judicial settlements and their respective effects are dealt with specifically in the Form under items 4, 5 and 6 respectively, which would be sufficient to establish that the judgement or judicial settlement, where applicable, has effect or is enforceable in the State of origin, and needs not be repeated. Instead, as Article 12 requires certain documents to be produced when applying for recognition or enforcement in the requested State, a note was added at the end of the Form, serving as a reminder for a party seeking recognition or enforcement.

6. JUDICIAL SETTLEMENT (transaction judiciaire) AND THE EFFECT OF THE JUDICIAL SETTLEMENT, WHERE APPLICABLE

~~6.1 The judicial settlement (Art. 11) was approved by the court, or a part of it was concluded in the course of proceedings before the court on (dd/mm/yyyy)~~

~~6.2 This judicial settlement is enforceable in the same manner as a judgment in the State of origin (Art. 12(1)(d)). 11)~~

~~Note that: if the above attached documents are not in an official language of the requested State, the party seeking recognition and enforcement of the judgment shall provide a certified translation into an official language of the requested State, unless the law of the requested State provides otherwise (Art. 12(4)).~~

- YES
- YES, but only the following part:
- NO
- Unable to confirm

Commented [A5]: For the sake of clarity, judicial settlement is dealt with separately in the Form.

7. OBLIGATIONS IMPOSED BY THE JUDGMENT (OR THE JUDICIAL SETTLEMENT, WHERE APPLICABLE)

According to the judgment given by the Court (Art. 3(1)(b)) (or where applicable, the judicial settlement approved by the court or concluded in the course of proceedings before the court (Art. 11)),

Commented [A6]: In order to assist the court addressed to identify "who has to pay what to whom", the Form introduces a different format.

In addition, the sequence of the obligations imposed was adjusted, with "monetary remedies" being followed by "non-monetary", "costs and expenses", "interests" with the consideration that "interests" can be imposed on "monetary relief" and "costs and expenses". "in the case of multiple persons being held liable", as a special case, is put at the end of Item 7.

7.1 the following amount of money has to be paid:

.....
to be paid by:
to be paid to:

Where applicable, please indicate any relevant categories of damages, including which are exemplary or punitive damages; the currency of the award; and any prescribed terms of payment of the monetary award such as the date and amount of any instalments:

7.2 the following non-monetary relief has to be performed:

7.3 the following costs and expenses relating to the proceedings (Art. 3(1)(b)) have to be paid:

Please specify, where applicable, any amount(s) included within a monetary award but not mentioned explicitly which is / are intended to cover costs and expenses relating to the proceedings:
to be paid by:
to be paid to:

7.4 the following interest has to be paid:

to be paid by:
to be paid to:

Please specify the rate(s) of interest; the portion(s) of the award, including the part awarding cost and expenses, if applicable, to which interest applies; the date from and until which interest is computed; and any further information regarding interest that would assist the court addressed.

7.5 If more than one person has been held liable for one and the same claim, the whole amount may be collected from any one of them.

- YES (please specify to which (part of the) claim this applies to money award, interest, costs and expenses, as applicable, and the corresponding amount):
.....
- NO

8. ANY OTHER RELEVANT INFORMATION

9. Dated this day of, 20..... at

10. Signature and / or stamp by the Court or officer of the Court:

11. CONTACT DETAILS

CONTACT PERSON IN THE COURT OF ORIGIN:

TEL.:

FAX:

E-MAIL:

CONTACT PERSON COMMUNICATION LANGUAGE(S):

|

* * * * *

Note that: in accordance with Article 12 of the Convention, parties seeking recognition or applying for enforcement under the Convention shall produce:

- a complete and certified copy of the judgment (Art. 12(1)(a));
- if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party (Art. 12(1)(b));
- any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin (Art. 12(1)(c));
- in the case referred to in Article 11 of the Convention, a certificate of a court (including an officer of the court) of the State of origin stating that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin (Art. 12(1)(d));
- if the above attached documents are not in an official language of the requested State, the party seeking recognition or applying for enforcement of the judgment shall provide a certified translation into an official language of the requested State, unless the law of the requested State provides otherwise (Art. 12(4)).

Commented [A7]: As Article 12 requires certain documents to be produced when applying for recognition or enforcement in the requested State, this note was added, serving as a reminder for a party seeking recognition or enforcement.

COMMISSION II

General Affairs and Policy

TWENTY-SECOND SESSION

(18 June – 2 July 2019)



Distribution: 1 July 2019

Working proposal No 3 from the Permanent Bureau

B – The following decisions and considerations -

The Twenty-Second Session,

1. Mandates the Permanent Bureau to revise, in consultation with Members, the draft Recommended Form under the Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, with a view to submitting the revised draft Recommended Form for approval to the Council on General Affairs and Policy in March 2020.

B – Les décisions et considérations suivantes :

La Vingt-deuxième session,

1. Confie au Bureau Permanent le mandat de réviser, en consultation avec les Membres, le projet de Formulaire recommandé en vertu de la Convention sur la reconnaissance et l'exécution des jugements étrangers en matière civile ou commerciale, en vue de soumettre pour approbation le projet révisé de Formulaire recommandé au Conseil sur les affaires générales et la politique de 2020.