

**Conference on *International Litigation in the Asia Pacific*
Wuhan, 23 - 24 September 2013**

**QUESTIONNAIRE ADDRESSED TO STATES PARTICIPATING IN THE ASIA PACIFIC
REGIONAL EVENT ON INTERNATIONAL LITIGATION**

The purpose of the Questionnaire is to collect information from States regarding the recognition and enforcement of foreign judgments and issues of international jurisdiction in the Asia Pacific region. This information will be used by the Permanent Bureau of the Hague Conference to create a country profile for each State that will assist delegates during the round table discussion session on the first day of the Conference. It is also hoped that the detailed information in the responses to this Questionnaire may be of use to participants beyond this conference.

The concept for the round table discussion session stems from the work the Permanent Bureau is currently undertaking on two key aspects of private international law in cross-border litigation: international jurisdiction and the recognition and enforcement of foreign judgments. A detailed chronology to the background of the work undertaken by the Hague Conference in this area can be located on the website of the Hague Conference < www.hcch.net >, under "Specialised Sections", then "Judgments Project".

The Questionnaire has two parts. Part I contains questions regarding the recognition and enforcement of foreign judgments and Part II contains questions on jurisdictional issues in international litigation. Please note that the Permanent Bureau has used the same terminology in the Questionnaire as that which was used in the two detailed notes that the Permanent Bureau recently prepared for the work being undertaken in this area. These notes identify the issues for consideration in the study of the recognition and enforcement of foreign judgments and jurisdiction in international litigation. For more information on these two topics and for a contextual background to the Questionnaire, please refer to these two notes which are located on the Judgments Project webpage listed above. The notes are titled, "Annotated Checklist of Issues to be discussed by the Working Group on Recognition and Enforcement of Judgments" (Note 1) "Issues Paper on Matters of Jurisdiction including Parallel Proceedings" (Note 2). A glossary of the terminology used is also located on the Judgments Project webpage, titled Annex I: Glossary to the Annotated Checklist.

The Permanent Bureau would very much appreciate receiving your response to this Questionnaire by 2 September 2013. Responses should be sent by e-mail to secretariat@hcch.net with the following heading and indication in the subject field: "Questionnaire concerning international litigation – [name of State]". Your co-operation in responding to this Questionnaire is very much appreciated and will greatly assist during the round table discussion session.

Identification (For follow-up purposes)

Name of the State: Viet Nam

Name of contact person: Department of International Law, Viet Nam Ministry of Justice

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PART I – RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION

NOTE: If your State has a non-unified legal system (*i.e.*, two or more systems of law which apply in different territorial units), and the information is available, please indicate the jurisdiction/s referred to in your answers.

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern the recognition and enforcement of foreign judgments?

YES

NO

If yes, please specify.

1. Agreement on Mutual Assistance and Jurisdiction on civil and criminal matters between the Socialist Republic of Viet Nam and the Socialist Republic of Czech and Slovakia.

2. Agreement on Mutual Assistance on civil, family, labour and criminal matters between the Socialist Republic of Viet Nam and the Republic of Cuba

3. Agreement on Mutual Assistance on civil, family and criminal matters between the Socialist Republic of Viet Nam and the People Republic of Hungary

4. Agreement on Mutual Assistance on civil, family and criminal matters between the Socialist Republic of Viet Nam and the People Republic of Bungary

5. Agreement on Mutual Assistance on civil, family and criminal matters between the Socialist Republic of Viet Nam and the Republic of Poland

6. Agreement on Mutual Assistance on civil and criminal matters between the Socialist Republic of Viet Nam and the People Republic and Democratic of Laos

7. Agreement on Mutual Assistance and Jurisdiction on civil and criminal matters between the Socialist Republic of Viet Nam and the Federation of Russia

8. Agreement on Mutual Assistance on civil and criminal matters between the Socialist Republic of Viet Nam and the People Republic of China

9. Agreement on Mutual Assistance on civil matters between the Socialist Republic of Viet Nam and the Republic of France

10. Agreement on Mutual Assistance on civil and criminal matters between the Socialist Republic of Viet Nam and Ukraine

11. Agreement on Mutual Assistance on civil, family and criminal matters between the Socialist Republic of Viet Nam and Mongolia

12. Agreement on Mutual Assistance on civil, family, labour and criminal matters between the Socialist Republic of Viet Nam and the Republic of Belarus

13. Agreement on Mutual Assistance on civil and commerce matters between the Socialist Republic of Viet Nam and the People Republic and Democratic of Algerie

14. Agreement on Mutual Assistance on civil and criminal matters between the Socialist Republic of Viet Nam and the Democratic People Republic of Korea

15. Agreement between the Taipei Economic and Cultural Office in Viet Nam and the Viet Nam Economic and Cultural Office in Taipei on Judicial Assistance in Civil Matters

2. Does your State have rules of national law that govern the recognition and enforcement of foreign court judgments in your State? (*i.e.*, legislation or case law)

YES

NO

If yes, please specify.

Civil Procedure Code, Part VI, VII (from Chapter XXVI to Chapter XXXI)

3. Which courts in your State hear applications for the recognition and enforcement of foreign judgments?

Please specify.

The people's courts of provinces or centrally-run cities

4. Are there specific conditions that need to be met in order for a judgment to be recognised and enforced by a court in your State?

YES
 NO

If yes, under what circumstances (*e.g.*, the jurisdiction of the foreign court must be recognised, the respondent to the application for recognition and enforcement must have assets in your State, the judgment must be a monetary judgment that is final and conclusive)?

Vietnamese courts shall consider, recognize and enforce in Vietnam civil judgments or decisions of foreign courts in the following cases:

- a) Civil judgments or decisions of courts of the countries which, together with Vietnam, have signed or acceded to international treaties on this matter;
- b) Judgments or decisions of foreign courts, which are recognized and enforced under Vietnamese law.

The judgment creditors or their lawful representatives have to file petitions with Viet Nam Ministry of Justice for recognition and enforcement of civil judgments.

Persons who file petitions for recognition and enforcement in Vietnam of foreign courts' civil judgments or decisions or foreign arbitral awards must pay fee amounts prescribed by Vietnamese laws.

5. Can a court in your State refuse to recognise and enforce a foreign court judgment that otherwise meets the specific conditions identified in Part I question 4?

YES
 NO

If yes, under what conditions (*e.g.*, procedural fairness, lack of proper notice to the defendant, an inconsistent foreign or domestic judgment, parallel domestic proceedings)? In addition, are those grounds for refusal raised on the court's own motion or by the party opposing the recognition and enforcement application?

6. Is recognition and enforcement of a foreign judgment subject to a special procedure before a court in your State?

YES
 NO

If yes, please describe the procedure.

Petitions for recognition and enforcement in Vietnam of civil judgments or decisions of foreign courts must be filed to the Vietnamese Ministry of Justice

7. What types of judgments are entitled to recognition and enforcement in your State?

Judgments entered in default
Comments.

Provisional and protective measures
Comments.

Non-money judgments
Comments.

Judgments awarding non-compensatory damages
Comments.

Other.

If other, please specify.

Foreign courts' civil judgments or decisions which shall not be recognized and enforced in Vietnam (Article 356 Civil Procedure Code):

1. The civil judgments or decisions which have not yet taken legal effect under the provisions of law of the countries where the courts have rendered such judgments or decisions.
2. The judgment debtors or their lawful representatives were absent from court sessions of foreign courts because they had not been duly summoned.
3. The cases fall under the exclusive jurisdiction of the Vietnamese court.
4. There has been a legally effective civil judgment or decision on the same case, that has been made by the Vietnamese court or by the foreign court but has been recognized and permitted by the Vietnamese court for enforcement in Vietnam or the Vietnamese court has accepted and been settling the case before it is accepted by a foreign court.
5. The statutes of limitation for judgment execution have expired under the law of the countries where the courts rendered such civil judgments or decisions or under Vietnamese law.
6. The recognition and enforcement in Vietnam of the judgments or decisions of foreign courts are contrary to fundamental principles of the Vietnamese law.

8. In your State, is it possible to appeal a courts decision to recognise and enforce a foreign judgment?

- YES
 NO

If yes, under what circumstances.

Within fifteen days as from the date the courts make decisions, the involved parties or their lawful representatives are entitled to appeal against such decisions. In cases where the involved parties or their lawful representatives are not present at the meetings to consider the petitions, the appeal time limit shall be counted from the date they receive such decisions. The appeals must clearly state the reasons for and the requests of the appeals.

In cases where force majeure events or objective obstacles have disabled the involved parties or their lawful representatives to lodge their appeals within the above time limit, the duration in which the force majeure events or objective obstacles exist shall not be included in the time limit for appeal.

9. What is the frequency of applications for recognition and enforcement of foreign court decisions per year? It is appreciated that this information may not be readily available in your Ministry however; such information may possibly be obtainable from the courts in your State.

- 0-5
 5-10
 10 - 20
 more than 20.

Any comments.

10. How many applications for the recognition and enforcement of a foreign court decision are granted in your State?

- 0-5
 5-10
 10 - 20
 more than 20.

Any comments.

PART II – JURISDICTIONAL REQUIREMENTS

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern issues of jurisdiction in international litigation?

- YES
 NO

If yes, please specify.

Agreements on Mutual Assistance in Civil Matters concluded between Vietnam and a number of countries, e.g. with Cuba or Poland

2. Does your State have rules of national law that govern issues of jurisdiction in international litigation in your State? (*i.e.*, legislation or case law)

- YES
 NO

If yes, please specify.

Civil Procedure Code, Law on Mutual Judicial Assistance

3. Have the rules of international jurisdiction in your State recently been reviewed? (*e.g.*, by the legislators, law reform bodies, other professional bodies).

- YES
 NO

Comments

Law reform bodies

4. In which of the following situations would the courts in your State have jurisdiction:

where the defendant voluntarily submits to the jurisdiction
Comments

where the defendant is domiciled or resides in your State
Comments

where the defendant carries out regular commercial activity in your State
Comments

where the contract is performed or there is a breach of contract in your State
Comments

where a contract is concluded executed between parties in your State
Comments

where the parties to the dispute have designated the courts of your State for the purpose of deciding disputes between them?
Comments

where an injury occurs to a person as the result of a tortuous act occurring in your State
Comments

where damage occurs to tangible property as the result of a tortuous act occurring in your State
Comments

where the defendant does not reside in your State, but the defendant's immovable property is held in your State
Comments

Other
Please specify

Other situations provided for in Articles 25 to 36, Articles 410 to 412 of the Civil Procedure Code

5. Is the nature of the above-mentioned grounds such that without these present a court is not entitled to hear a case?
- YES
 NO
- Comments.

6. In which of the following situations would a court, otherwise having jurisdiction as described in part II question 4, decline to exercise its jurisdiction in your State:

where there are identical proceedings (proceedings involving the same parties and the same cause of action) occurring in another State's courts
Please indicate the relevant source of law and any comments.

where there are related proceedings (those proceedings that do not have identical parties and causes of action but have related causes of action and parties)
Please indicate the relevant source of law and any comments.

where the court determines that it is an inappropriate forum
Please indicate the relevant source of law and any comments.

Civil Procedure Code

where it is in the interests of justice to do so
Please provide any comments

other
Please indicate.