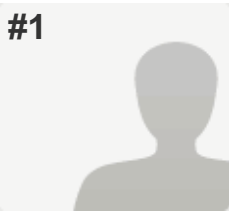


#1



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:37:22 PM

Last Modified: Wednesday, September 28, 2016 4:39:16 PM

Time Spent: 00:01:53

IP Address: 62.189.127.37

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

England

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

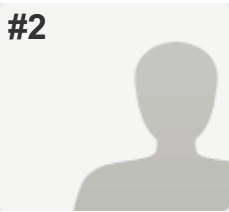
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#2



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:39:31 PM

Last Modified: Wednesday, September 28, 2016 4:45:25 PM

Time Spent: 00:05:54

IP Address: 62.72.97.226

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Belgium

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment" ,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

appeal proceedings on the merits opposed to limited appeal to the Supreme Court

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

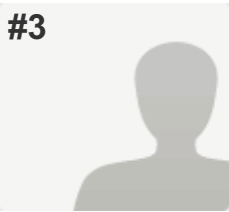
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
h.boularbah@liedekerke.com

#3



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:47:35 PM

Last Modified: Wednesday, September 28, 2016 4:48:55 PM

Time Spent: 00:01:20

IP Address: 79.129.122.162

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Greece

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

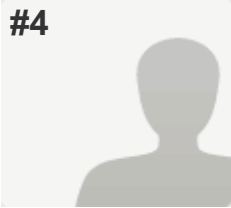
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#4



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:41:13 PM

Last Modified: Wednesday, September 28, 2016 4:58:28 PM

Time Spent: 00:17:14

IP Address: 193.246.68.29

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Costs,
Other (please specify) Time!

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment",
The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin ,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

The Hague Judgments Convention Survey

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

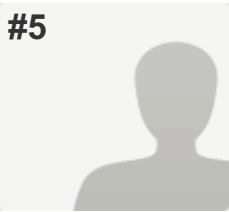
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#5



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:58:09 PM

Last Modified: Wednesday, September 28, 2016 5:00:11 PM

Time Spent: 00:02:01

IP Address: 75.145.138.101

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

USA

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

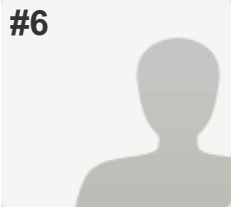
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#6

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Wednesday, September 28, 2016 4:53:53 PM**Last Modified:** Wednesday, September 28, 2016 5:00:50 PM**Time Spent:** 00:06:56**IP Address:** 195.158.103.15

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Malta

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Other (please specify) not within the EU

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
The validity of entries in public registers	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

not a res judicata in that an appeal or other recourse is still possible

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

The Hague Judgments Convention Survey

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

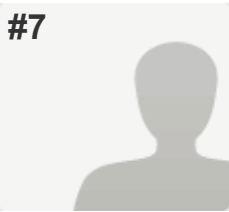
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#7

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Wednesday, September 28, 2016 5:03:54 PM**Last Modified:** Wednesday, September 28, 2016 5:05:30 PM**Time Spent:** 00:01:35**IP Address:** 80.11.247.165

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

France

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Demonstrating the competence of the court issuing the judgment

,

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is not a "final Judgment" ,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

The Hague Judgments Convention Survey

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

The Hague Judgments Convention Survey

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

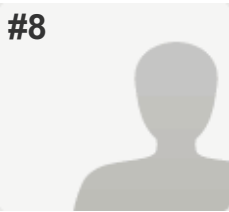
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#8



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 5:03:12 PM

Last Modified: Wednesday, September 28, 2016 5:05:54 PM

Time Spent: 00:02:41

IP Address: 198.235.146.15

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Canada

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement."Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

The Hague Judgments Convention Survey

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

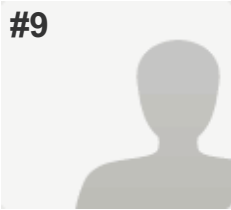
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
kathryn.mcculloch@dentons.com

#9

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Wednesday, September 28, 2016 4:39:41 PM**Last Modified:** Wednesday, September 28, 2016 5:10:52 PM**Time Spent:** 00:31:11**IP Address:** 195.46.245.20

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Luxembourg

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Demonstrating the competence of the court issuing the judgment

,

Costs,

Other (please specify)

proof of service if default judgment is to be enforced

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons

Agree

Maintenance obligations

Agree

Other family law matters

Agree

Wills and succession

Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

,

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

We know of "opposition" in case of a default judgment, and appeal in case of review by a second court

PAGE 6: Article 5

The Hague Judgments Convention Survey

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

The Hague Judgments Convention Survey

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
ftrevisan@bsp.lu

#10



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:52:50 PM

Last Modified: Wednesday, September 28, 2016 5:13:41 PM

Time Spent: 00:20:51

IP Address: 209.226.201.241

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Canada

Q2: What is the legal system of your jurisdiction?

Other (please specify)
Mainly common law- but Quebec is civil law.

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
There is rarely difficulty in enforcing judgments in Canada.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment" ,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

,

Proof of the defendant's receipt of the proceedings electronically

,

Other (please specify)
I previously said "no", but beyond the presumptive position, some default judgments should be enforceable. I would add proof of service according to the standards of the defendant's home jurisdiction. And I would make it subject to a showing that the issuing court was a suitable forum.

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

I would say "appeal" but the term "ordinary review" is not well understood

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Other (please specify) Why is it being used?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Any other criteria or if you agree with more than one suggestion above please specify here:
No

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

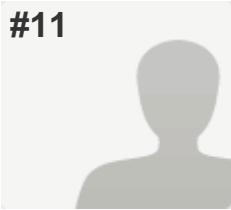
Questions 15, 18 and 22 inappropriately force a choice (I hope I have those numbers right) and 13 is a bit wonky

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
Janet@janet-walker.com

#11

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Wednesday, September 28, 2016 4:38:04 PM**Last Modified:** Wednesday, September 28, 2016 5:19:25 PM**Time Spent:** 00:41:21**IP Address:** 185.31.210.114

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Ukraine

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment" ,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- ☐ Any decision on the merits given by a court, whatever it may be called
- ☐ ,
- ☐ Final judgments only (as opposed to interim measures of protection)
- ☐ ,
- ☐ A determination of legal costs or expenses by a court
- ☐ ,
- ☐ Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

- ☐ Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Judgment is subject to appeal.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin ,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

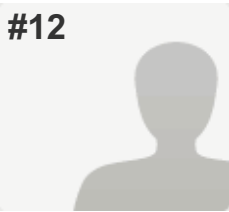
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
dmarchukov@avellum.com

#12



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 4:39:51 PM

Last Modified: Wednesday, September 28, 2016 5:20:02 PM

Time Spent: 00:40:10

IP Address: 177.79.23.4

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Brazil

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Complying with material requirements such as violation of the Brazilian Public Order

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment" ,
The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter
,
Other (please specify) I

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin ,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

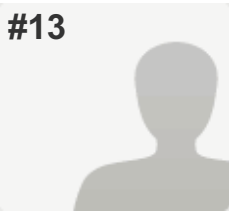
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#13



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 6:17:35 PM

Last Modified: Wednesday, September 28, 2016 6:35:16 PM

Time Spent: 00:17:41

IP Address: 200.52.88.162

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Mexico

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

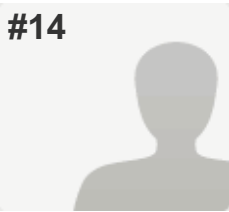
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#14



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 7:25:45 PM

Last Modified: Wednesday, September 28, 2016 7:36:01 PM

Time Spent: 00:10:16

IP Address: 49.195.109.199

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Australia

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal procedure as set out in the relevant Court Rules

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

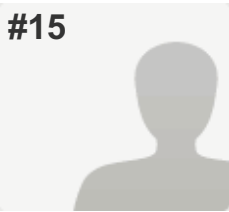
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#15



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, September 28, 2016 11:12:33 PM

Last Modified: Wednesday, September 28, 2016 11:24:02 PM

Time Spent: 00:11:29

IP Address: 72.43.255.3

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Australia

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Torpedo actions,

Other (please specify)

Cultural or institutional reticence to enforce foreign judgements against locals.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

The best I could conceive is appeal as of right (only available for final judgements)

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced
,

Other (please specify)
Contractual consent - however this raises a real inequality of bargaining power and public policy question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,

If not, should there be a specific provision in which the requirements of authentication or certification are set out?

Yes we need some means to avoid fraud but the bar should not be ridiculously high

PAGE 11: Article 11b

The Hague Judgments Convention Survey

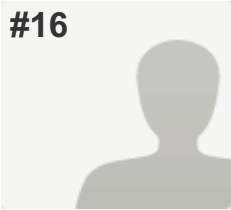
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#16



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, September 29, 2016 7:13:02 AM

Last Modified: Thursday, September 29, 2016 7:29:43 AM

Time Spent: 00:16:40

IP Address: 195.242.165.58

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

ordinary appeal proceedings to second and third instance court

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,
If not, should there be a specific provision in which the requirements of authentication or certification are set out?
no

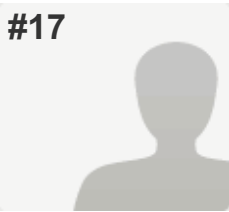
PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group? No

#17



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, September 29, 2016 6:14:42 AM

Last Modified: Thursday, September 29, 2016 8:29:24 AM

Time Spent: 02:14:41

IP Address: 197.225.146.87

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Mauritius

Q2: What is the legal system of your jurisdiction?

Other (please specify)
The legal system is governed by principles derived from both English common law and the French Code Napoleon. Further, The Constitution of the Country established the separation of powers between the legislature, the executive and the judiciary and guaranteed the protection of the fundamental rights and freedom of the individual.

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

The Hague Judgments Convention Survey

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

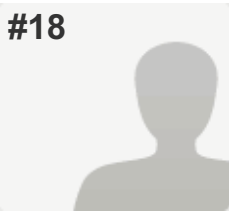
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#18



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, September 29, 2016 1:14:57 PM

Last Modified: Thursday, September 29, 2016 1:23:14 PM

Time Spent: 00:08:16

IP Address: 88.232.224.25

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

TURKEY

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

The Hague Judgments Convention Survey

Q15: Should the "place of performance of the obligation" be specifically defined, for example: *Respondent skipped this question*

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction? *Respondent skipped this question*

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined? *Respondent skipped this question*

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement: *Respondent skipped this question*

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement? *Respondent skipped this question*

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including: *Respondent skipped this question*

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

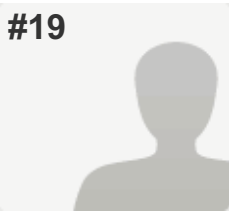
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#19



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, September 29, 2016 2:51:52 PM

Last Modified: Thursday, September 29, 2016 4:07:58 PM

Time Spent: 01:16:06

IP Address: 46.144.51.150

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

The Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment" ,
The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Opposition to a default judgment (that is: reintroduction of the case in Court by the former defaulting party as well as his defense) or appeal

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced
,

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Other (please specify)
Express consent not provided in writing but proofed by other means to the satisfaction of the court.

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes,

If not, why not?

Better: "(...) in a State in which performance of any obligation under the contract took place or (etc.), . Thus all courts in States where any performance took or should have taken place can give judgment on the contract as a whole. The last part of the Article should be left out as this - under the original text - would mean that parties could not obtain an enforceable judgment concerning obligations (to be) performed in a state to which their activities did not constitute a purposeful and substantial connection.

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)

it should refer to the treaties (esp. the Vienna Convention of the law of treaties) under which this place should be determined making clear that those definitions should apply for the purpose of this treaty even if the states concerned where not members to those treaties.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Other (please specify) It should be eliminated.

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify) In both cases

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,

If not, should there be a specific provision in which the requirements of authentication or certification are set out?
no

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

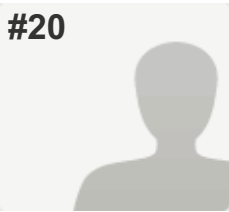
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
tubbergen@schaap.eu

#20



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, September 30, 2016 12:28:47 PM

Last Modified: Friday, September 30, 2016 12:49:37 PM

Time Spent: 00:20:49

IP Address: 87.236.3.98

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal proceedings

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

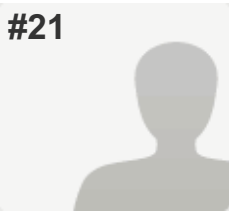
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address: pv@kiveld.nl

#21



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, September 30, 2016 2:39:22 PM

Last Modified: Friday, September 30, 2016 2:45:02 PM

Time Spent: 00:05:40

IP Address: 82.201.36.11

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Enforcement would be contrary to public policy The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

The Hague Judgments Convention Survey

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

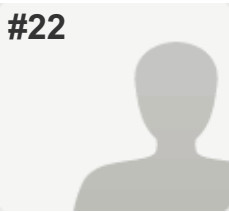
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#22



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 03, 2016 9:25:54 AM

Last Modified: Monday, October 03, 2016 9:38:57 AM

Time Spent: 00:13:02

IP Address: 185.46.214.50

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment" ,

The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

,

Other (please specify)

The issuing court had no competence to issue the judgment.

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,

Final judgments only (as opposed to interim measures of protection)
,

A determination of legal costs or expenses by a court
,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

,

Proof of the defendant's receipt of the proceedings electronically

,

Other (please specify)

Proof of service by a method approved in the state where the defendant is domiciled.

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

This would be any form of appeal to the exclusion of a revision or a request for reconsideration.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)

As the place of performance is either determined by the parties' agreement or the law applicable to the contract, there seems to be no need for further definition.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
Yes. However it would be good to include new form of formal service by way of electronic means or facilitated service by publication if service cannot be effected within 6 months.

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

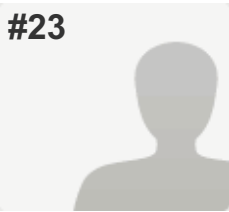
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
sgiroud@lalive.ch

#23



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 03, 2016 9:39:39 AM

Last Modified: Monday, October 03, 2016 9:40:29 AM

Time Spent: 00:00:50

IP Address: 185.46.214.50

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

S

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

,

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

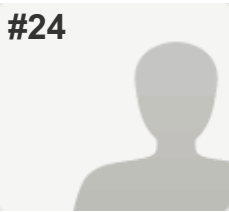
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#24



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 03, 2016 10:14:56 AM

Last Modified: Monday, October 03, 2016 10:45:34 AM

Time Spent: 00:30:38

IP Address: 95.97.35.250

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment",

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

the applicable statutory time limit for appealing against the relevant decision

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin ,

Express consent provided in writing either before or after proceedings in the court of origin have commenced ,

Other (please specify)
NB With regard to the 1st: a defence not contesting jurisdiction

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify) yes, both the 1st and the 2nd

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

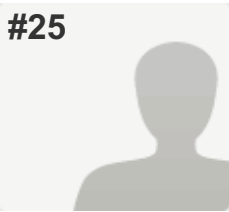
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
vanderplas@hocker.nl

#25



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 03, 2016 10:23:17 AM

Last Modified: Monday, October 03, 2016 11:03:44 AM

Time Spent: 00:40:27

IP Address: 217.124.142.213

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Spain

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Ordinary review could be confusing under Spanish procedural law, as under Spanish law reviews are classified as extraordinary and ordinary

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

The Hague Judgments Convention Survey

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

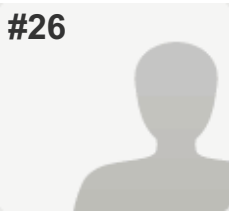
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#26



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 03, 2016 2:50:56 PM

Last Modified: Monday, October 03, 2016 3:13:29 PM

Time Spent: 00:22:32

IP Address: 81.4.144.210

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Cyprus

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

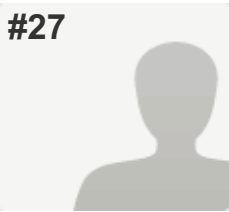
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#27



INCOMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, October 07, 2016 3:59:09 PM
Last Modified: Friday, October 07, 2016 4:00:18 PM
Time Spent: 00:01:08
IP Address: 108.219.44.162

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

United States

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs, Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
 The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

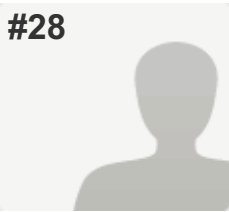
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#28



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 07, 2016 3:46:24 PM

Last Modified: Friday, October 07, 2016 4:02:55 PM

Time Spent: 00:16:31

IP Address: 193.128.60.132

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

England & Wales

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

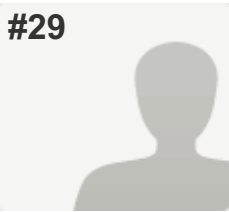
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#29



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 07, 2016 4:53:30 PM

Last Modified: Friday, October 07, 2016 4:55:41 PM

Time Spent: 00:02:11

IP Address: 136.243.124.116

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Russia

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

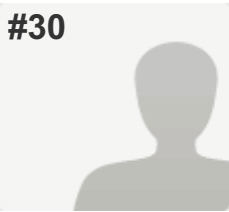
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#30



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 07, 2016 4:50:53 PM

Last Modified: Friday, October 07, 2016 5:12:55 PM

Time Spent: 00:22:02

IP Address: 136.243.124.116

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Russian Federation

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

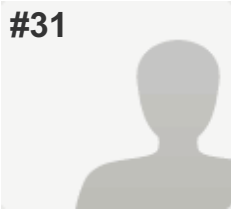
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
alexander.nektorov@nsplaw.com

#31



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 07, 2016 5:18:08 PM

Last Modified: Friday, October 07, 2016 5:44:31 PM

Time Spent: 00:26:22

IP Address: 80.248.193.246

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Liechtenstein

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Liechtenstein is only a member of the Hague Convention on child Support. As regards other civil claims, enforcement treaties only exist with Austria and Switzerland. However, Liechtenstein is a member on the New York convention on the Recognition and Enforcement of Arbitral Awards.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

A Review by any state court apart from the constitutional court. Complaints filed with the latter are considered as "extraordinary" remedies

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

It leaves out other potential venues (residence of the defendant etc)

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
if would prefer to limit the recognition to contractual obligations

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,
If not, should there be a specific provision in which the requirements of authentication or certification are set out?
yes

PAGE 11: Article 11b

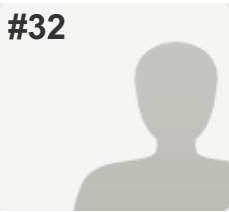
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,
If yes, please state your email address:
zechberger@akrz-law.com

#32



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 07, 2016 8:49:35 PM

Last Modified: Friday, October 07, 2016 8:51:12 PM

Time Spent: 00:01:37

IP Address: 38.99.129.1

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Canada, Ontario

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

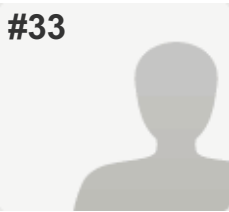
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#33



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Saturday, October 08, 2016 4:31:25 PM

Last Modified: Saturday, October 08, 2016 4:37:01 PM

Time Spent: 00:05:35

IP Address: 64.124.209.76

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

United States

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:	A complete and certified copy of the judgment
--	---

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?	Yes
---	-----

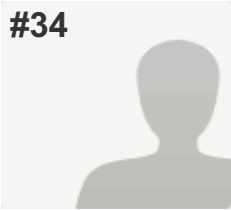
Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?	Yes
--	-----

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]	<i>Respondent skipped this question</i>
--	---

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?	Yes, If yes, please state your email address: areyes@wc.com
--	---

#34



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Saturday, October 08, 2016 4:40:43 PM

Last Modified: Saturday, October 08, 2016 4:55:54 PM

Time Spent: 00:15:11

IP Address: 178.197.231.11

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal that normally is available in commercial cases, with normally preventing the judgement from becoming final and enforceable before the appeals ruling

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

No

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,
If not, should there be a specific provision in which the requirements of authentication of certification are set out?
Yes

PAGE 11: Article 11b

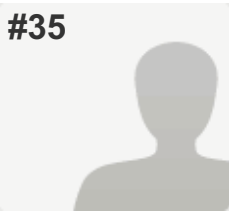
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,
If yes, please state your email address:
manuel.liatowitsch@swlegal.ch

#35

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Sunday, October 09, 2016 3:16:26 PM**Last Modified:** Sunday, October 09, 2016 3:24:26 PM**Time Spent:** 00:08:00**IP Address:** 89.101.142.92

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

ireland

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is not a "final Judgment",
Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
all of above

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

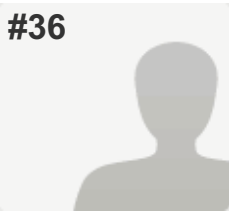
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#36



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 10, 2016 12:40:23 PM

Last Modified: Monday, October 10, 2016 12:51:39 PM

Time Spent: 00:11:15

IP Address: 217.124.142.213

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Spain

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Under Spanish law there is a distinction between ordinary and extraordinary review. Hence this terminology might be confusing under Spanish law

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
It sounds ambiguous. A reference to the law of origin and the rules thereby set may be easier.

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

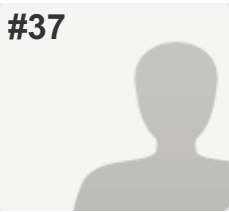
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,
If yes, please state your email address:
mromero@perezllorca.com

#37



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 10, 2016 12:34:36 PM

Last Modified: Monday, October 10, 2016 1:00:26 PM

Time Spent: 00:25:50

IP Address: 81.45.36.190

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Spain

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Other (please specify) Public policy

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

All recourses and appeals including cassation recourse at the Supreme Court, except challenges at the Constitutional Court for breach of fundamental rights.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

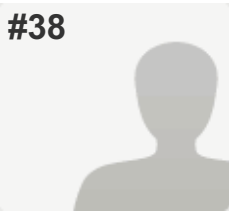
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#38



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 10, 2016 3:46:25 PM

Last Modified: Monday, October 10, 2016 4:27:02 PM

Time Spent: 00:40:37

IP Address: 82.201.36.11

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

The Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter
,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

The Hague Judgments Convention Survey

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

The Hague Judgments Convention Survey

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

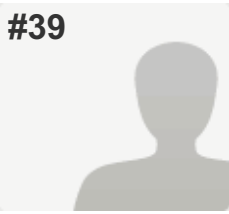
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#39

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 10, 2016 2:51:38 PM**Last Modified:** Monday, October 10, 2016 4:40:57 PM**Time Spent:** 01:49:18**IP Address:** 46.226.50.230

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Romania

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
None of the above particularly. The duration of the enforcement procedures may be an issue sometimes but this is due to the specific workload of the courts

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,

Final judgments only (as opposed to interim measures of protection)
,

A determination of legal costs or expenses by a court
,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Ordinary appeal

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

,

Other (please specify)
The defendant has not raised the issue of lack of jurisdiction in the defense (or equivalent)

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

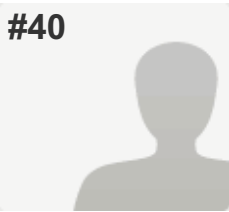
PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group? Yes

#40



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 4:19:10 AM

Last Modified: Tuesday, October 11, 2016 4:20:55 AM

Time Spent: 00:01:44

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

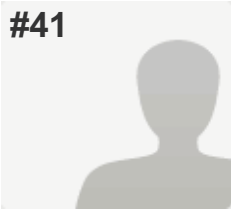
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#41



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 4:21:17 AM

Last Modified: Tuesday, October 11, 2016 4:25:10 AM

Time Spent: 00:03:52

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

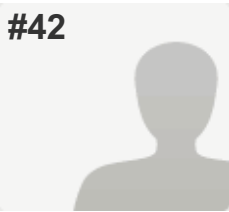
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#42



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 8:38:23 AM

Last Modified: Tuesday, October 11, 2016 9:09:41 AM

Time Spent: 00:31:17

IP Address: 195.77.95.141

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Spain

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify) It works quite good

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

A determination of legal costs or expenses by a court
,
Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

,

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

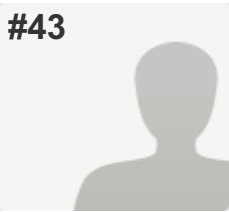
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#43



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 9:57:39 AM

Last Modified: Tuesday, October 11, 2016 10:02:45 AM

Time Spent: 00:05:05

IP Address: 151.0.227.241

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

ITALY

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

The Hague Judgments Convention Survey

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

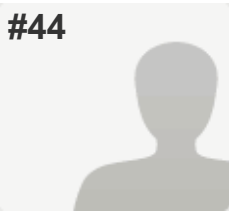
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#44

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Tuesday, October 11, 2016 9:57:39 AM**Last Modified:** Tuesday, October 11, 2016 10:21:19 AM**Time Spent:** 00:23:39**IP Address:** 151.0.227.241

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

ITALY

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

ANY KIND OF APPEAL OR REFORMATION REQUEST

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

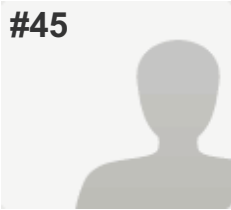
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
carlorossello@bfplex.com

#45



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 10:24:03 AM

Last Modified: Tuesday, October 11, 2016 6:56:49 PM

Time Spent: 08:32:46

IP Address: 82.201.36.11

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Nederland

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

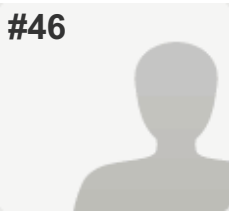
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#46



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 11, 2016 7:46:17 PM

Last Modified: Tuesday, October 11, 2016 8:11:54 PM

Time Spent: 00:25:37

IP Address: 190.7.219.46

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

SPAIN

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Other (please specify)

Reliable evidence of correct service of the claim to the defendant as well as the first instance or successive judgments, in the event of appeals, until the decision is final.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

,

Other (please specify)

While I would say "yes" to the collective redress judgments, I see very problematic that they would be generally enforceable in other jurisdictions, which may not have such means. However, I understand that each State may declare a reserve or oppose to this particularly, so on the overall, I believe it convenient.

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

In Spain, within civil matters, appeals are considered "ordinary remedies". An appeal before the Supreme Court or the Constitutional Court would be considered extraordinary remedies. This is more accurate in the latter case but the appeal before the Supreme Court never entails a third review of the merits, just a remedy of extraordinary errors or the wrong application of legal provisions without changing the assessment of the evidence as understood by the Court of Appeal (Audiencia Provincial). However, if successful the Supreme Court decision may change the result. As a consequence, even if it is understood as an extraordinary remedy internally, i believe that it should be considered "ordinary" for the Convention purposes as long as the Appeal decision is not final because it has been appealed to the Supreme Court, irrespective of the restrictions in this final instance.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
I agree with options 1, 2 and 4

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

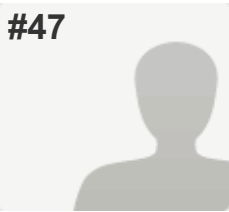
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
mtorres@rodrigoabogados.com

#47



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, October 12, 2016 12:30:10 PM

Last Modified: Wednesday, October 12, 2016 12:51:56 PM

Time Spent: 00:21:45

IP Address: 82.201.36.11

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

The Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment" ,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Ordinary review means that a regular legal remedy (e.g. appeal or cassation) is exercised against a judgment. If an appeal is lodged against a judgment, the enforcement of this judgment is suspended, as long as the judgment is not declared provisionally enforceable.

In the Netherlands the court may declare a judgment provisionally enforceable ("uitvoerbaar bij voorraad"). Provisional enforceability lifts the suspensive effect ("schorsende werking") of remedies, so enforcement remains possible. So if an appeal is lodged against a judgment that was declared provisionally enforceable, the enforcement of this judgment is not suspended.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
All of the above: - A complete and certified copy of the judgment; - If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party; - Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin; - Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

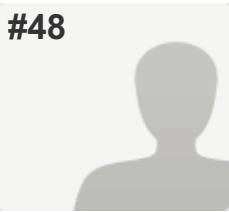
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#48



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, October 12, 2016 11:22:43 PM

Last Modified: Wednesday, October 12, 2016 11:50:59 PM

Time Spent: 00:28:16

IP Address: 54.68.70.105

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

USA

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
Other (please specify)
contrary to arbitration clause, contrary to forum selection clause

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

don't know

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

,

Other (please specify)
The defendant has appeared in the court of origin without raising the defense (early in the proceeding) that the court of origin lacks jurisdiction.

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)
performance can also take place at the place from which the seller ships the goods (ex factory)

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
That works only if you also define the concepts. Also, it might lead to forum shopping because the locations of some of the acts and omissions can be manipulated. P is injured in Germany and travels to the US for surgery, then dies of his injuries in the US. His heirs sue in the US (because the damages are presumably much higher there). Torts are tough to govern in an international convention. Not sure it can be done in a fair way. Foreseeability is important, and I don't know if you can achieve that.

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
Generally yes, but you need to add the word "reasonable" somewhere.

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Any other criteria or if you agree with more than one suggestion above please specify here:
You need to add the concept of "reasonableness." It is different to be sued in a neighboring country with a similar legal system (Germany / Austria) than in a jurisdiction far away (Germany / China). To hire a lawyer and develop a defense in Denmark is presumably much easier for a German defendant than it is to hire a lawyer in China and work with them on a defense.

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
all of the above

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No

PAGE 11: Article 11b

The Hague Judgments Convention Survey

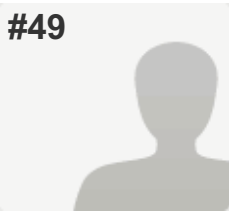
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#49



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, October 13, 2016 2:22:34 AM

Last Modified: Thursday, October 13, 2016 2:31:57 AM

Time Spent: 00:09:22

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

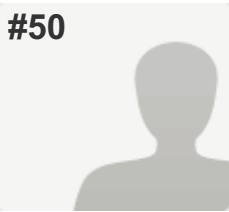
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#50



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, October 13, 2016 2:36:28 AM

Last Modified: Thursday, October 13, 2016 2:36:49 AM

Time Spent: 00:00:21

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

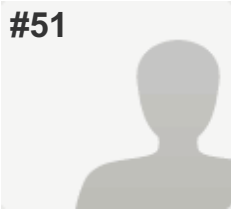
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#51



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Saturday, October 22, 2016 3:13:39 PM

Last Modified: Saturday, October 22, 2016 3:32:27 PM

Time Spent: 00:18:48

IP Address: 62.157.192.198

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Germany

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs,

Complying with formal requirements such as documents required, translation, certified copies

,

Other (please specify)

Time is a major concern - outside the European Union, these proceedings tend to take very long

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is not a "final Judgment",

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
,

Other (please specify)

In my opinion, the two tests I ticked should apply cumulatively: Service must comply with the requirements of the state of origin AND with international standards as set out in the Convention

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

The standard appeal procedures defined by the German Code of Civil procedure (Beschwerde, Berufung, Revision). The non-standard means of review (seeking leave of further appeal, constitutional complaints) are well-defined under German law.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced
,

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
I agree with suggestions one, two and four

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

It is about time!

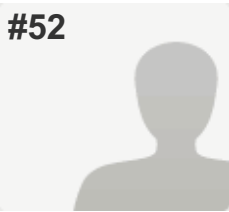
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
p.bert@taylorwessing.com

#52



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:05:24 AM

Last Modified: Monday, October 24, 2016 11:18:56 AM

Time Spent: 00:13:32

IP Address: 217.125.69.205

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Spain

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Demonstrating the competence of the court issuing the judgment

,

Costs, Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment" ,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

It means review procedures while the judgment is not yet final.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

No

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
I agree with 1 to 4.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

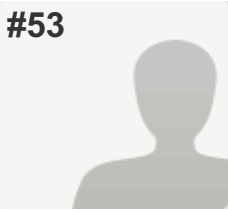
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#53

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 11:00:35 AM**Last Modified:** Monday, October 24, 2016 11:19:45 AM**Time Spent:** 00:19:09**IP Address:** 91.113.169.212

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Austria

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The validity of entries in public registers	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

The Hague Judgments Convention Survey

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party

The Hague Judgments Convention Survey

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

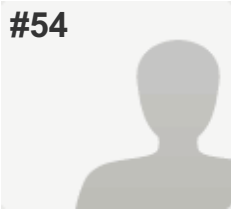
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#54

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 11:01:59 AM**Last Modified:** Monday, October 24, 2016 11:20:48 AM**Time Spent:** 00:18:48**IP Address:** 193.36.241.5

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

France

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
Nuclear damage	Agree
Arbitration	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Other (please specify)
The Convention should, in my view, contain a list of methods which would be regarded as proper service and state that proof of service according to either of these methods would be sufficient (but also necessary)

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Other (please specify)
Substantial seems clear. Purposeful connection may be more difficult to understand and therefore apply

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
It should be eligible to recognition / enforcement where either of the criteria is met

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
Suggestions 1 to 4 are fine

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

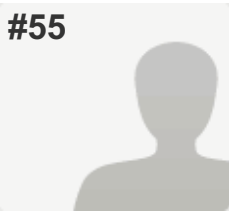
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
erwan.poisson@allenoverly.com

#55



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:03:32 AM

Last Modified: Monday, October 24, 2016 11:21:38 AM

Time Spent: 00:18:06

IP Address: 80.149.71.210

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Germany

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs, Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Other family law matters	Agree
Insolvency, composition and analogous matters	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,
Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,
Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

there is no such animal. The term would be open to Interpretation.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not? the third is unclear

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
all of the above 4

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

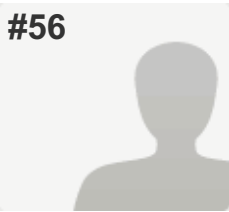
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
brand@redeker.de

#56



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:24:05 AM

Last Modified: Monday, October 24, 2016 11:34:26 AM

Time Spent: 00:10:21

IP Address: 84.16.69.247

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
,

Proof of the defendant's receipt of the proceedings electronically

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
statements 1, 2, 4 may apply

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

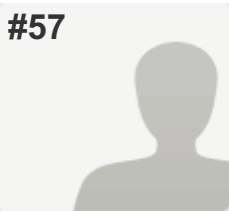
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#57



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:46:20 AM

Last Modified: Monday, October 24, 2016 11:47:26 AM

Time Spent: 00:01:06

IP Address: 58.173.44.152

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Australia

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment",

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

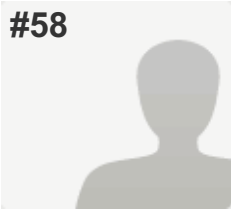
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#58

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 11:34:33 AM**Last Modified:** Monday, October 24, 2016 11:48:24 AM**Time Spent:** 00:13:51**IP Address:** 79.129.122.162

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Greece

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Compliance with Due Process requirements at the issuing Court

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]	Final judgments only (as opposed to interim measures of protection) ,
	A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?	Yes
--	-----

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]	Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
--	---

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Ordinary Legal Remedies (Appeal and Appeal in Cassation)

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin ,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
There should be no restriction to jurisdiction of a Court. Both above scenarios should provide jurisdiction. This is the norm in the EU under the Jurisdiction Regulation.

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

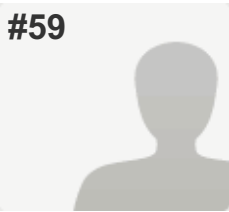
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#59



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:28:47 AM

Last Modified: Monday, October 24, 2016 11:51:08 AM

Time Spent: 00:22:20

IP Address: 31.51.9.81

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

England and Wales

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

A review will normally only be by way of an Appeal. But in our jurisdiction an appeal is only permitted with leave of the court that issued the judgement or by the appellate court itself. Such appeals are by their very nature limited in scope and it is best for the provision of security to postpone enforcement

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
It is important for defendants that deliberately avoid or refuse to acknowledge proceedings in the foreign court are not put in a more advantageous position than a party that has attended.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

The Hague Judgments Convention Survey

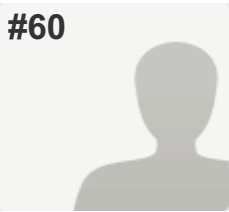
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes

#60



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:55:42 AM

Last Modified: Monday, October 24, 2016 11:58:55 AM

Time Spent: 00:03:12

IP Address: 93.62.172.66

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Italy

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- ☐ Any decision on the merits given by a court, whatever it may be called
- ☐ ,
- ☐ Final judgments only (as opposed to interim measures of protection)
- ☐ ,
- ☐ A determination of legal costs or expenses by a court
- ☐ ,
- ☐ Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

,

Proof of the defendant's receipt of the proceedings electronically

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

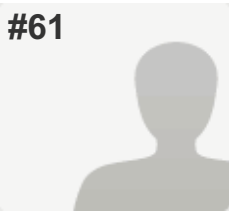
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
giovanni.gigliotti@pavia-ansaldo.it

#61



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:25:18 AM

Last Modified: Monday, October 24, 2016 12:04:22 PM

Time Spent: 00:39:04

IP Address: 84.233.131.153

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

England

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Other (please specify)
Need in countries without mutual recognition convention/treaty arrangements to start fresh proceedings

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter
,
The Foreign Judgment is not a "final Judgment",
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

,

Proof of the defendant's receipt of the proceedings electronically

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

,

Other (please specify)

By demonstrating valid service and that a defendant did not then challenge jurisdiction

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

The parties' chosen applicable law should come first.

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)

A system of rebuttable presumptions would give flexibility to respond to particular factual situations.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
Compliance with local law with regard to service should be a pre-requisite.

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
The first three should be mandatory. The fourth shouldn't be required because the courts in the state of origin may well have no involvement at all in the settlement process.

The Hague Judgments Convention Survey

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention? Yes

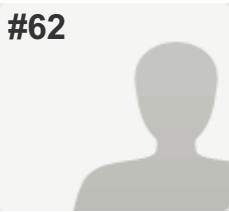
Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)? Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer] *Respondent skipped this question*

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group? No

#62



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 11:34:21 AM

Last Modified: Monday, October 24, 2016 12:21:37 PM

Time Spent: 00:47:16

IP Address: 219.141.185.242

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

China

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Torpedo actions,
Other (please specify)
Very limited treaty basis for such enforcement actions.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
The validity of entries in public registers	Agree
Arbitration	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)
The place of performance will be defined very differently. It will do immense good to define the most frequent contracts.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Other (please specify)
It should adds a comparative dimension: it should be the place which has a purposeful and the most significant relationship with the contract.

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
Both, instead of "neither".

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Any other criteria or if you agree with more than one suggestion above please specify here:
Where the judgment is being enforced is not necessarily where the debtor is domiciled. I think this originating-enforcing dictomy missed an important point.

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
all the four

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

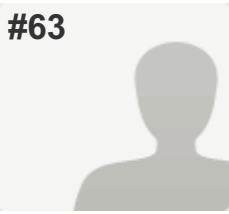
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#63

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 12:40:50 PM**Last Modified:** Monday, October 24, 2016 12:42:46 PM**Time Spent:** 00:01:56**IP Address:** 94.75.204.5

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

The Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

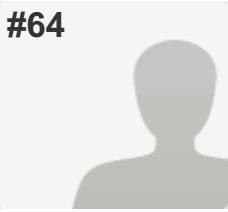
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#64

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 12:38:45 PM**Last Modified:** Monday, October 24, 2016 12:49:48 PM**Time Spent:** 00:11:03**IP Address:** 219.141.185.242

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

China

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Torpedo actions,
Other (please specify) Time and uncertainty

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Defamation	Agree
Arbitration	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
Final judgments only (as opposed to interim measures of protection)
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
,
Other (please specify)
If a bilateral or multilateral treaty has a more flexible requirement on services, that should be permitted as well.

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

In China, civil matters are heard by the courts with two instances and the judgment of second instance is final, but a party may still request a leave to appeal after that still. Should "ordinary review" includes the "leave to appeal" proceeding?

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?
The last criteria leaves the plaintiff too much liberality in picking a jurisdictional uncomfortable for the defendant. "under the law applicable to the contract" may cause circular reasoning if the jurisdiction, and thus the private intertional rules, are uncertain.

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)
It would do good to define the most important and common types.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify) Both!

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

No

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Any other criteria or if you agree with more than one suggestion above please specify here:
The originating-enforcing dictomy missed the point that in most cases the service should be directed to the place where the defendant is domiciled.

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

No

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
All above

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

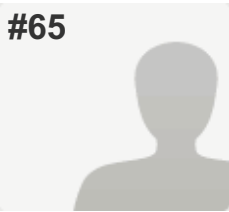
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No,

If yes, please state your email address:
hu.ke@jingtian.com

#65



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 12:56:18 PM

Last Modified: Monday, October 24, 2016 1:12:10 PM

Time Spent: 00:15:51

IP Address: 100.45.19.23

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

BELIZE

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

It COULD mean an appeal with the appellate court having jurisdiction over law and facts with full power to reverse. But it could also mean some other type of judicial review by a different or higher court or tribunal with a limited jurisdiction. so it is unclear what the term means.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced
,

Other (please specify)
Proof of service, and if the procedural rules of the state of the Court of Origin provides that failure to acknowledge service after a specified period will constitute consent to the jurisdiction.

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No

PAGE 11: Article 11b

The Hague Judgments Convention Survey

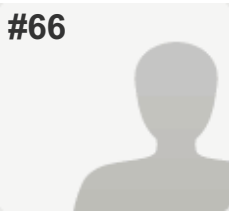
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes

#66



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 12:42:22 PM

Last Modified: Monday, October 24, 2016 1:16:37 PM

Time Spent: 00:34:15

IP Address: 185.46.212.105

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Nigeria

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs, Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters
,

Proof of the defendant's receipt of the proceedings electronically

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

It includes appeals and "judicial review" (Certiorari, Prohibition, etc.) processes.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

I do not think that the qualification "in the absence of an agreed place of performance" is necessary.

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
Yes.

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
Bullets 1, 2 & 4.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,
If not, should there be a specific provision in which the requirements of authentication or certification are set out?
No.

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

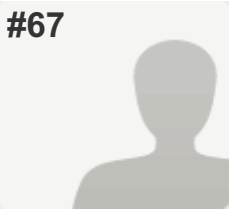
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
Julius.Ejikonye@shell.com

#67

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 1:17:36 PM**Last Modified:** Monday, October 24, 2016 1:20:42 PM**Time Spent:** 00:03:06**IP Address:** 83.220.238.194

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Russia

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Absence of international conventions and Absence of reciprocity

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
Other (please specify)
Absence of grounds for recognition (no treaty/reciprocity)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

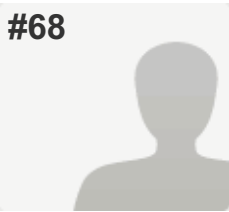
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#68



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 12:54:58 PM

Last Modified: Monday, October 24, 2016 1:24:18 PM

Time Spent: 00:29:20

IP Address: 81.4.144.210

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Cyprus

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment" ,
The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

That wording is not available in my jurisdiction. I interpret it to mean 'appeal'

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)
Yes it should be defined as the two examples provided here

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
All of the above

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

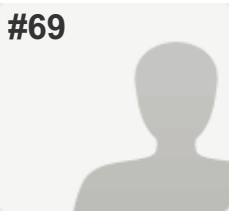
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
hadjisoteriou@kyprianou.com.cy

#69

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 11:02:50 AM**Last Modified:** Monday, October 24, 2016 1:29:09 PM**Time Spent:** 02:26:18**IP Address:** 31.193.220.34

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Ireland

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- Any decision on the merits given by a court, whatever it may be called
- ,
- A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

"Appeal"

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Other (please specify)
Production of contract/agreement with jurisdiction clause (be it exclusive or even non-exclusive).

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

Is this clause mixing up choice of jurisdiction and choice of law ? For eg:- A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was (i) given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, (ii) GIVEN IN THE STATE SEISED IN ACCORDANCE WITH JURISDICTION CLAUSE under the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State."

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify) where the act causing the harm occurred in a Contracting State.

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
1 and 2

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

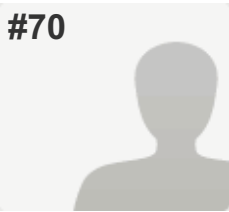
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Question 20 was not a yes or no answer.

It should be Mandatory.

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group? No

#70



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 1:31:14 PM

Last Modified: Monday, October 24, 2016 1:39:51 PM

Time Spent: 00:08:36

IP Address: 59.160.100.194

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

India

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Demonstrating the competence of the court issuing the judgment

,

Other (please specify)

My jurisdiction recognises superior courts of only certain jurisdictions as being 'competent' courts. These do not include US courts and courts of most European states. Further, delays in enforcement proceedings due to court backlogs and wide discretion with judges to grant adjournments and continuances.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is not a "final Judgment",

The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

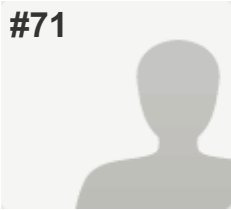
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
abhishek@atlaw.co.in

#71



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 3:30:26 PM

Last Modified: Monday, October 24, 2016 3:33:13 PM

Time Spent: 00:02:47

IP Address: 200.62.154.93

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Peru

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

A determination of legal costs or expenses by a court
,
Final judgments only (as opposed to interim measures of protection)
,
Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

The Hague Judgments Convention Survey

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

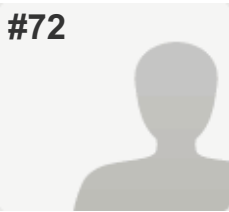
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#72



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 3:45:05 PM

Last Modified: Monday, October 24, 2016 3:56:44 PM

Time Spent: 00:11:39

IP Address: 38.140.21.66

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

USA - New York and New Jersey

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

The Hague Judgments Convention Survey

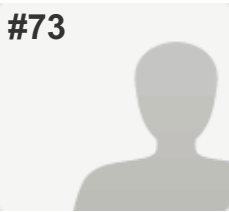
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#73



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 3:57:57 PM

Last Modified: Monday, October 24, 2016 4:07:22 PM

Time Spent: 00:09:24

IP Address: 90.186.2.120

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

germany

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs, Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]	Any decision on the merits given by a court, whatever it may be called ,
	A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?	No
--	----

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]	<i>Respondent skipped this question</i>
--	---

The Hague Judgments Convention Survey

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

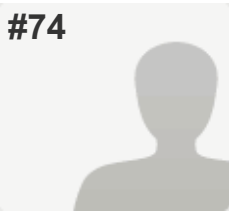
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#74

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 4:54:13 PM**Last Modified:** Monday, October 24, 2016 4:55:44 PM**Time Spent:** 00:01:31**IP Address:** 80.71.2.125

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

england

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies
,
Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

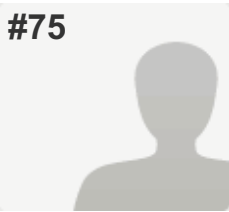
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#75



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 24, 2016 5:55:12 PM

Last Modified: Monday, October 24, 2016 6:06:24 PM

Time Spent: 00:11:12

IP Address: 108.227.84.67

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

California, USA

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- ☐ Any decision on the merits given by a court, whatever it may be called
- ☐ ,
- ☐ Final judgments only (as opposed to interim measures of protection)
- ☐ ,
- ☐ A determination of legal costs or expenses by a court
- ☐ ,
- ☐ Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Statutory time for appeal

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
A complete and certified copy of the judgment, and, if the judgment was by default, a certified copy of the document establishing proper service/notice

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

No,
If not, should there be a specific provision in which the requirements of authentication or certification are set out?
Yes

PAGE 11: Article 11b

The Hague Judgments Convention Survey

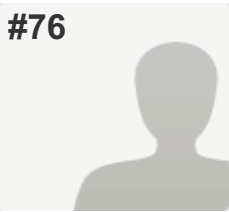
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#76

**INCOMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Monday, October 24, 2016 8:17:26 PM**Last Modified:** Monday, October 24, 2016 8:43:08 PM**Time Spent:** 00:25:41**IP Address:** 190.148.85.210

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Costa Rica

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Delay in the handling of the enforcement proceeding (exequatur)

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Maintenance obligations

Agree

Other family law matters

Agree

The validity of entries in public registers

Agree

Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered

Agree

PAGE 3: Article 7

The Hague Judgments Convention Survey

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

The Hague Judgments Convention Survey

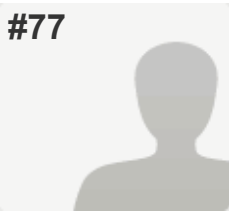
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#77

**COMPLETE****Collector:** Web Link 1 (Web Link)**Started:** Tuesday, October 25, 2016 3:28:35 AM**Last Modified:** Tuesday, October 25, 2016 3:44:26 AM**Time Spent:** 00:15:50**IP Address:** 118.189.42.125

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Singapore

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Other (please specify)
Absence of laws allowing / promoting reciprocal enforcement.

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

,

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court
,
Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

A complete and certified copy of the judgment

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

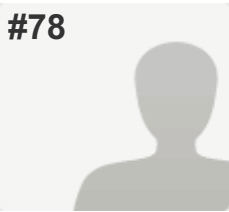
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
ej.kronenburg@braddellbrothers.com

#78



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Tuesday, October 25, 2016 5:05:19 PM

Last Modified: Tuesday, October 25, 2016 5:11:01 PM

Time Spent: 00:05:42

IP Address: 46.144.51.150

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

The Netherlands

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

,

The Foreign Judgment is not a "final Judgment" ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

The Hague Judgments Convention Survey

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Judgments rendered in proceedings for collective redress
,

A determination of legal costs or expenses by a court
,

Final judgments only (as opposed to interim measures of protection)
,

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal or Cassation

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

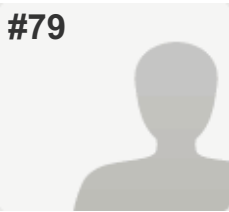
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#79



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, October 26, 2016 1:12:24 PM

Last Modified: Wednesday, October 26, 2016 1:17:23 PM

Time Spent: 00:04:59

IP Address: 62.162.205.218

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Macedonia

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Disagree
Defamation	Disagree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Disagree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:	A complete and certified copy of the judgment
--	---

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?	Yes
---	-----

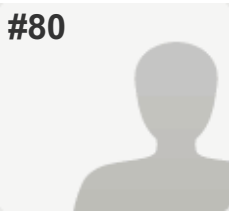
Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?	Yes
--	-----

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]	<i>Respondent skipped this question</i>
--	---

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?	No
--	----

#80



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, October 26, 2016 5:48:34 PM

Last Modified: Wednesday, October 26, 2016 6:03:52 PM

Time Spent: 00:15:18

IP Address: 213.26.66.6

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Italy

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

,

A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred."In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

No

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

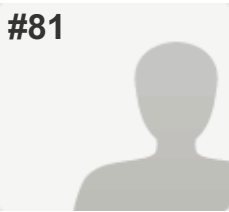
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
carlo.portatadino@studiotosetto.it

#81



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Wednesday, October 26, 2016 5:53:24 PM

Last Modified: Wednesday, October 26, 2016 6:16:14 PM

Time Spent: 00:22:49

IP Address: 109.3.130.70

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

FRANCE

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is not a "final Judgment"

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Disagree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called
,
A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

,

Proof of the defendant's receipt of the proceedings electronically

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Mere appeal before a court of appeal against a decision rendered by a lower court.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
Do not understand the question

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
All of the above.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

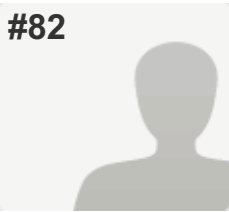
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#82



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Thursday, October 27, 2016 8:44:41 AM

Last Modified: Thursday, October 27, 2016 8:45:09 AM

Time Spent: 00:00:28

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Respondent skipped this question

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Respondent skipped this question

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Respondent skipped this question

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

Respondent skipped this question

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Respondent skipped this question

PAGE 4: Article 4

The Hague Judgments Convention Survey

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Respondent skipped this question

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Respondent skipped this question

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Respondent skipped this question

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Respondent skipped this question

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Respondent skipped this question

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Respondent skipped this question

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Respondent skipped this question

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Respondent skipped this question

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

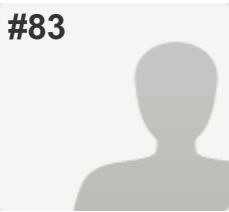
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#83



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Friday, October 28, 2016 5:25:59 AM

Last Modified: Friday, October 28, 2016 5:38:45 AM

Time Spent: 00:12:46

IP Address: 112.137.191.146

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Japan

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

,

Costs

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

,

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- ☐ Any decision on the merits given by a court, whatever it may be called
- ☐ ,
- ☐ Final judgments only (as opposed to interim measures of protection)
- ☐ ,
- ☐ A determination of legal costs or expenses by a court
- ☐ ,
- ☐ Judgments rendered in proceedings for collective redress

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal to the court of second instance and final appeal.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,
Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example: No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction? Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined? *Respondent skipped this question*

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement: Neither of the above (please specify)
Both of the above, provided, however, that with respect to the first item (i.e., where the harm occurred in the State of Origin) if the occurrence of the harm in the State of Origin was ordinarily unforeseeable a Judgment should not be eligible for recognition and enforcement.

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement? Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including: Any other criteria or if you agree with more than one suggestion above please specify here:
I think it is varied with country and so practically difficult to define or generalize the time period or way to enable the defendant to arrange for his defence.

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
All documents above, although Japan currently does not have such procedure as a certificate of a court of the state of origin stated in the fourth item.

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

→ Q6 2.II.k) Defamation

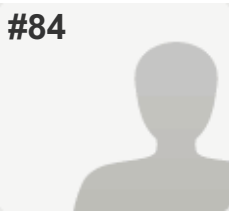
^^ Under the given options we could exclude only defamation among the choices of freedom of expression to be excluded, but we think that more aspects of freedom of expression should be excluded, yet the choices for those were not provided.

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
osamu.inoue@ushijima-law.gr.jp

#84



INCOMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, October 30, 2016 3:47:37 PM
Last Modified: Sunday, October 30, 2016 3:55:08 PM
Time Spent: 00:07:30
IP Address: 47.19.10.10

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

USA

Q2: What is the legal system of your jurisdiction?

Common law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
 ,

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Disagree
Other family law matters	Disagree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure

,

Proof of service of proceedings by a method approved in the state where the judgment is to be enforced and according to the enforcing court's local rules of procedure

,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Appeal from a final judgment; not post-judgment motions at the trial court

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Express consent provided in writing either before or after proceedings in the court of origin have commenced

,

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

It depends on too many debateable terms to offer much certainty, if that is the goal

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

Yes

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

Respondent skipped this question

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Neither of the above (please specify)
Unclear why it has to be one of the other as opposed to two alternatives

PAGE 9: Article 7

The Hague Judgments Convention Survey

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

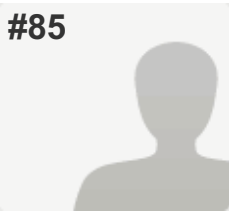
Respondent skipped this question

The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#85



INCOMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 12:39:57 PM

Last Modified: Monday, October 31, 2016 12:47:05 PM

Time Spent: 00:07:08

IP Address: 213.61.158.84

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Germany

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies ,

Torpedo actions

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Disagree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]	A determination of legal costs or expenses by a court , Final judgments only (as opposed to interim measures of protection)
---	---

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?	No
--	----

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]	<i>Respondent skipped this question</i>
--	---

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

All legal means available for reviewing the judgement both on procedure and on the merits.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

Wording is unclear as to "under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State"

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

No, it should not be specifically defined

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Respondent skipped this question

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Respondent skipped this question

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Respondent skipped this question

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Respondent skipped this question

PAGE 11: Article 11b

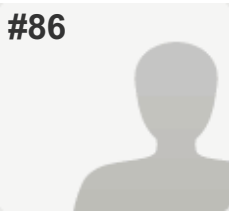
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Respondent skipped this question

#86



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 10:52:25 AM

Last Modified: Monday, October 31, 2016 1:43:03 PM

Time Spent: 02:50:37

IP Address: 213.186.202.33

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Ukraine

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is inconsistent with a Judgment given by the enforcing Court in a dispute between the same parties and relating to the same subject matter
,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Agree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Final judgments only (as opposed to interim measures of protection)

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

"Ordinary review" generally means an appellate review of the judgement of the first instance that did not enter into force.

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)
In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered. In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
A complete and certified copy of the judgment If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

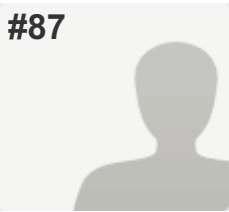
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes

#87



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 1:39:37 PM

Last Modified: Monday, October 31, 2016 2:04:07 PM

Time Spent: 00:24:29

IP Address: 212.153.12.89

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Germany

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

- ☐ Any decision on the merits given by a court, whatever it may be called
- ☐ ,
- ☐ Final judgments only (as opposed to interim measures of protection)
- ☐ ,
- ☐ A determination of legal costs or expenses by a court

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Berufung, Beschwerde, Revision, Nichtzulassungsbeschwerde - "ordinary" types of appeal, no exceptional means of appeal (e.g. constitutional complaints)

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin
,

Express consent provided in writing either before or after proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

Other (please specify)

It should be considered whether (for certain contracts) the place of performance should also be decisive for the jurisdiction on counter-performance (e.g. the place of performance of an obligation to deliver goods is also decisive for the contractual obligation to pay the purchase price). Alternatively, it may be considered whether in case of payment claims, the place of performance shall always be the place of residence of the party that is supposed to make the payment.

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence."Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Respondent skipped this question

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

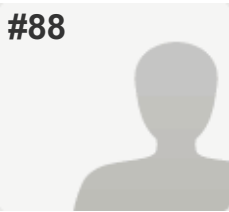
The Hague Judgments Convention Survey

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
david.buntenbroich@dlapiper.com

#88



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 5:18:46 PM

Last Modified: Monday, October 31, 2016 6:24:20 PM

Time Spent: 01:05:34

IP Address: 62.244.5.147

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Ukraine

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

The Foreign Judgment is not a "final Judgment",
Enforcement would be contrary to public policy

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

The Hague Judgments Convention Survey

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service of proceedings by a method approved in the state where the judgment originated and according to the originating court's local rules of procedure
,

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

No

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Respondent skipped this question

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

Other (please specify)
Express consent provided in writing before proceedings in the court of origin have commenced

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

The Hague Judgments Convention Survey

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

No,

If not, why not?

Since it leaves a number of possible cases where courts in different states would be eligible to rule a judgment and hierarchy of criteria does not give a clear guide for this.

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the sale of goods, the place where, under the contract, the goods were delivered or should have been delivered

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

If not, do you consider that service should rather be effected formally?
It should be effected both formally and properly

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment originated

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State where a) The court of the Requested State was seised before the Court of Origin; and b) There is a close connection between the dispute and the Requested State." In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

If you agree with more than one suggestion above please specify here:
A complete and certified copy of the judgment If the judgment was given by default, the original or certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin Where you are seeking to enforce a court approved settlement, a certificate of a court of the state of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

No

The Hague Judgments Convention Survey

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

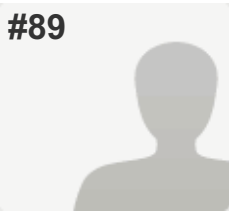
Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

Yes,

If yes, please state your email address:
v.yaremko@sklaw.com.ua

#89



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 6:25:26 PM

Last Modified: Monday, October 31, 2016 6:32:45 PM

Time Spent: 00:07:19

IP Address: 46.140.151.198

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Switzerland

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Complying with formal requirements such as documents required, translation, certified copies

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,

The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

No

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Agree
Maintenance obligations	Disagree
Other family law matters	Agree
Wills and succession	Disagree
Insolvency, composition and analogous matters	Agree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Agree
Nuclear damage	Agree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Disagree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

Yes

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Proof of service in accordance with The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

review in law and in facts

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

Yes

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Defining its meaning by reference to rules of procedure in the court where the judgment is being enforced

The Hague Judgments Convention Survey

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Respondent skipped this question

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

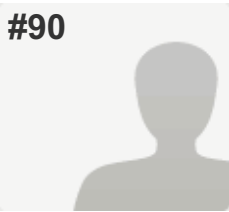
Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No

#90



COMPLETE

Collector: Web Link 1 (Web Link)

Started: Monday, October 31, 2016 8:21:27 PM

Last Modified: Monday, October 31, 2016 8:36:17 PM

Time Spent: 00:14:49

IP Address: 187.191.6.189

PAGE 1

Q1: Please state your jurisdiction of reference (ie the jurisdiction where you are qualified to enforce or defend the enforcement of a foreign judgment). This jurisdiction will be referred to thereafter as "your jurisdiction"

Mexico

Q2: What is the legal system of your jurisdiction?

Civil law

Q3: In your experience, what practical difficulties most often arise when you are involved in enforcing a judgment (given in your own jurisdiction) in another jurisdiction? (Tick all that apply)

Demonstrating the competence of the court issuing the judgment

Q4: In your experience, which arguments have you relied upon most often to prevent a Foreign Judgment that you believe is erroneous or inappropriately obtained from being enforced in your own / your client's jurisdiction? [Tick all that apply; multiple answers possible]

Enforcement would be contrary to public policy ,
The Foreign Judgment is procedurally defective (eg proceedings not served correctly, for example)
,
The merits of the Foreign Judgment (including its findings of fact) may be reviewed and overturned by the enforcing Court

Q5: The Judgments Convention is intended to apply to cases where The Hague Convention on Choice of Court Agreements 2005 does not apply. Do you think that this should be specifically set out in the Judgments Convention?

Yes

PAGE 2: Article 2

Q6: Do you agree that the following matters should be excluded from the scope of the Judgments Convention?

The status and legal capacity of natural persons	Disagree
Maintenance obligations	Agree
Other family law matters	Agree
Wills and succession	Agree
Insolvency, composition and analogous matters	Disagree
The carriage of passengers and goods	Disagree
Marine pollution, limitation of liability for maritime claims, general average, and emergency towage and salvage	Disagree
Nuclear damage	Disagree
The validity, nullity, or dissolution of legal persons or associations of natural or legal persons, and the validity of decisions of their organs	Agree
The validity of entries in public registers	Agree
Defamation	Agree
Arbitration	Agree
Awards of exemplary or punitive damages that do not compensate a party for actual loss or harm suffered	Agree

PAGE 3: Article 7

Q7: In your view, what type of "Judgments" should be included within the scope of the Judgments Convention? [Tick all that apply; multiple answers possible]

Any decision on the merits given by a court, whatever it may be called

PAGE 4: Article 4

Q8: Should a judgment be enforceable even if it was given in default of appearance?

No

PAGE 5: Question 9

Q9: If yes (ie a judgment should be enforceable even if it was given in default of appearance), how should the person seeking to enforce the judgment be required to demonstrate that the judgment debtor had notice of the proceedings? [Tick all that you agree with]

Respondent skipped this question

Q10: Article 4(4) of the draft Judgments Convention states: "If a Judgment is the subject of review in the State of Origin or if the time limit for seeking ordinary review has not expired, the court addressed may grant recognition or enforcement upon the provision of security, postpone recognition or enforcement; or refuse recognition or enforcement." Do you think that the concept of what constitutes an "ordinary review" is commonly understood in your jurisdiction?

Yes

Q11: Please specify what "ordinary review" means in your jurisdiction? [Unlimited space for answer]

Those recourses that any person can file prior to file a Constitutional Recourse (amparo)

PAGE 6: Article 5

Q12: Article 5(1)(e) provides that a judgment is enforceable if the defendant expressly consented to the jurisdiction of the court of origin. How should a party seeking to enforce a judgment be required to prove that a defendant has "expressly consented"? (Tick all that you agree with)

The defendant has submitted a defence (or equivalent) in the proceedings in the court of origin

Q13: Article 5(1)(f) of the draft Judgments Convention states: "A Judgment is eligible for recognition and enforcement if the defendant entered an appearance before the Court of Origin without contesting jurisdiction at the first opportunity to do so, if the defendant would have had an arguable case that there was no jurisdiction or that jurisdiction should not be exercised under the law of the State of Origin." Do you agree think a defendant's failure to contest jurisdiction in the Court of Origin at the first opportunity to do so, as contemplated by this provision, should lead to recognition and enforcement of the Judgment, assuming other requirements are satisfied?

No

Q14: Article 5(1)(g) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a contractual obligation and it was given in the State in which performance of that obligation took place or should have taken place under the parties' agreement, or, in the absence of an agreed place of performance, under the law applicable to the contract, unless the defendant's activities in relation to the transaction clearly did not constitute a purposeful and substantial connection to that State." Do you think that the hierarchy of criteria in this provision works?

Yes

Q15: Should the "place of performance of the obligation" be specifically defined, for example:

In the case of the provision of services, the place where, under the contract, the services were provided or should have been provided

Q16: Do you think that the concept of "purposeful and substantial connection to the State" is sufficiently well understood to be applied consistently by courts in your jurisdiction?

No

PAGE 7: Article 5a

Q17: If not, (ie if you think that this concept is not sufficiently well understood to be applied consistently by courts in your jurisdiction), should the concept of "purposeful and substantial connection to the State" be defined?

By a specific definition in the draft Judgments Convention?

PAGE 8: Article 5a(2)

Q18: Article 5(1)(j) of the draft Judgments Convention states: "A judgment is eligible for recognition and enforcement if the judgment ruled on a non-contractual obligation arising from the death, physical injury, damage to or loss of tangible property, and the act or omission directly causing such harm occurred in the State of Origin, irrespective of where that harm occurred." In your view, should a Judgment be eligible for recognition and enforcement:

Where the act causing the harm occurred in the State of Origin

PAGE 9: Article 7

Q19: Article 7(1)(a)(i) of the draft Judgments Convention states: "Recognition or enforcement may be refused if a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence." Do you consider that service "in sufficient time and in such a way as to enable him to arrange for his defence" is a sufficient ground to allow recognition or enforcement?

Yes

Q20: Should the Judgments Convention explicitly set out what is meant by "a document which instituted the proceedings or an equivalent document, including a statement of the essential elements of the claim was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence", including:

Specifying an appropriate time period between service of the proceedings and obtaining judgment in default of a defence

Q21: Article 7(2) of the draft Judgments Convention states: "Recognition or enforcement may be refused or postponed if proceedings between the same parties on the same subject matter are pending before a Court of the Requested State wherea) The court of the Requested State was seised before the Court of Origin; andb) There is a close connection between the dispute and the Requested State."In your view, should the requirement that the Requested State (i.e., the enforcing Court) postpone recognition or enforcement in this situation be optional (as drafted) or mandatory?

Yes

PAGE 10: Article 11

Q22: Article 11(1) sets out the documents that a party needs to produce to the court where it is seeking to enforce a judgment. Do you agree that the following documents should be produced:

Any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin

Q23: Should there be a specific form to complete when applying to a court for enforcement, which is annexed to the convention?

Yes

Q24: Should there be a specific provision to exempt documents from requirements of authentication or certification, such as legalisation or other analogous formalities (see e.g. Article 18 of the 2005 Choice of Court Convention)?

Yes

PAGE 11: Article 11b

Q25: Please set out any other comments on the draft Judgments Convention that you would like to be considered. [Unlimited space for answer]

Respondent skipped this question

Q26: Do you want to be involved in the IBA Litigation Committee – The Hague Judgment Committee Working Group?

No