



2019 Hague Convention on the recognition and enforcement of foreign judgments in civil or commercial matters

The 2019 Hague Convention in a nutshell

On 1 September 2023, the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (henceforth, “the Convention”) entered into force in Greece. Main purpose of the Convention, adopted by the Hague Conference on Private International Law (HCCH) during its 22nd Diplomatic Session, is to facilitate cross-border circulation of court judgments by establishing a uniform set of rules for recognition and enforcement.

Through Decision no 2022/1206 adopted by the Council of the European Union on 12 July 2022 under the consent of the European Parliament, the European Union (except for the Kingdom of Denmark) was the first Signatory to accede to the Convention. As an EU-Member State, Greece is deemed to have ratified the Convention on 29 August 2022. The Convention entered into force

on 1 September 2023, i.e., a year after the first two Signatory States (currently, the European Union and the Ukraine) deposited their instruments of ratification/accession.

Scope of applicability

The Convention is deemed to supplement the 2005 Hague Choice of Court Convention, being though considerably wider in its scope, as it creates a common legal framework for the recognition and declaration of enforceability of judgments, irrespectively of whether a choice of court agreement between parties to an international dispute is in place. Any judgment (i.e., a court decision on the merits, as well as determination of costs or expenses), including judgments issued on consumer and individual employment contract disputes, falls within the scope of the Convention. Judgments on disputes concerning the status and legal

capacity of natural persons, family and inheritance law, insolvency, privacy, intellectual property, and certain anti-trust matters, arbitration, as well as interim measures are excluded. The Signatories may also declare that the Convention does not apply to other specific matters.

Main principles and bases for recognition and declaration of enforceability

As a main principle of the Convention enhancing certainty and predictability of recognition and declaration of enforceability, there shall be no review of the merits of the case before the courts of the Requested State. To the extent that a judgment is binding and enforceable in the State of origin, that judgment shall be recognised and declared enforceable in the requested State, accordingly. Recognition and/or declaration of enforceability may though be postponed or refused if the judgment is subject to review in the State of origin or if the time limit for seeking ordinary review of that judgment has not expired.

Recognition and declaration of enforceability are premised on international jurisdiction of the court in the State of origin issuing the judgment. That condition is deemed met, if the party against whom recognition and/or declaration of enforceability is sought (i) was habitually resident, had its principal place of business, or maintained a branch, agency, or any other establishment without separate legal personality in the State of origin, (ii) is the party that brought the claim, (iii) expressly consented to the jurisdiction, (iv) argued on the merits of the dispute, (v) the judgment ruled on a contractual

obligation to be performed in the State of origin, (vi) the relevant dispute pertained to a lease of immovable property or to an obligation secured by a right in rem in immovable property located in the State of origin, (vii) the judgment ruled on a non-contractual obligation arising from death, physical injury, damage to or loss of tangible property occurring in the State of origin, e.a. With reference to judgments ruling on rights in rem in immovable property, the relevant property must be located in the State of origin.

Grounds for refusal of recognition and declaration of enforceability

The Convention sets out an exhaustive list of grounds for refusal of recognition and/or declaration of enforceability, primarily pertaining to (i) due process violation, (ii) procedural fraud, (iii) incompatibility with public policy, (iv) violation of prorogation agreements and in general non-adherence with certain jurisdictional requirements, (v) inconsistency with an earlier judgment given by a court of the requested State in a dispute between the same parties, and (vi) inconsistency with an earlier judgment issued by a court of any other Signatory between the same parties.

Preliminary questions, judicial settlements, punitive damages, and the principle of severability

Judgments on preliminary questions may also be recognised and declared enforceable under the Convention, to the extent that such questions fall within the scope of application of the Convention. Based on the principle of severability, a judgment may be partially recognised or

declared enforceable, in case only a part of it may be recognised and/or declared enforceable under the Convention. Recognition and enforcement may be refused, to the extent that the judgment grants exemplary or punitive damages not corresponding to actual loss or harm suffered. Judicial settlements approved by the courts of a Signatory or concluded during proceedings before such court may also be recognised and enforced under the Convention, to the extent that such settlements are binding and enforceable in the State of origin.

Recognition and declaration of enforceability proceedings before Greek Courts

The proceedings for recognition and declaration of enforceability are regulated by the law of the State where recognition and/or declaration of enforceability are sought. According to Greek Code of Civil Procedure, the party applying for the recognition and/or declaration of enforceability of a foreign judgment must apply with the Single-Member Court of First Instance of the place where the party against whom recognition and/or declaration of enforceability is sought has its domicile, habitual residence, or seat. In the alternative, the courts of Athens are competent.

The applicant must submit with the court (i) a complete and certified copy of the judgment, (ii) in case of a default judgment, the original or a certified copy of a document establishing that the claim was served upon the defaulting party, and (iii) documents necessary to establish that the judgment is binding and enforceable in the State of origin. An official translation of the above

documents in Greek is required. Notwithstanding the above (except for rights in rem in immovable property), the Convention allows for the application of Greek law, in case the provisions of Greek law are deemed more favourable than the Convention (principle of the more favourable law).

Current signatories and future perspectives

The Convention shall apply in cases where the relevant proceedings in the State of origin are initiated after the Convention entered into force (i.e., after 1 September 2023). The Convention has already been signed – yet still not ratified – by the USA (2022), Israel, Russia, and Costa Rica (2021), as well as Montenegro and North Macedonia (2023). Following Brexit, the United Kingdom declared its will to join the Convention as soon as practicable. The Convention was ratified by Uruguay on 1 September 2023 and shall enter into force in that State on 1 October 2024. The Convention is open for signature, ratification, and accession by all States, through the deposition of the relevant instrument with the depositary of the Convention, the Ministry of Foreign Affairs of the Kingdom of Netherlands.

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