
Changes to legislation: There are currently no known outstanding effects for the Civil Jurisdiction and Judgments Act 1982, CHAPTER III. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3F

TEXT OF THE 2005 HAGUE CONVENTION

Textual Amendments

- F1** Sch. 3F inserted (31.12.2020) by Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), **Sch. 3** (with s. 3(1), Sch. 5 para. 7)

CONVENTION ON CHOICE OF COURT AGREEMENTS

CHAPTER III

RECOGNITION AND ENFORCEMENT

Article 8

Registration and enforcement

- (1) A judgment given by a court of a Contracting State designated in an exclusive choice of court agreement shall be recognised and enforced in other Contracting States in accordance with this Chapter. Recognition or enforcement may be refused only on the grounds specified in this Convention.
- (2) Without prejudice to such review as is necessary for the application of the provisions of this Chapter, there shall be no review of the merits of the judgment given by the court of origin. The court addressed shall be bound by the findings of fact on which the court of origin based its jurisdiction, unless the judgment was given by default.
- (3) A judgment shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.
- (4) Recognition or enforcement may be postponed or refused if the judgment is the subject of review in the State of origin or if the time limit for seeking ordinary review has not expired. A refusal does not prevent a subsequent application for recognition or enforcement of the judgment.
- (5) This Article shall also apply to a judgment given by a court of a Contracting State pursuant to a transfer of the case from the chosen court in that Contracting State as permitted by Article 5, paragraph 3. However, where the chosen court had discretion as to whether to transfer the case to another court, recognition or enforcement of the judgment may be refused against a party who objected to the transfer in a timely manner in the State of origin.

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Article 9

Refusal of recognition or enforcement

Recognition or enforcement may be refused if—

- (a) the agreement was null and void under the law of the State of the chosen court, unless the chosen court has determined that the agreement is valid;
- (b) a party lacked the capacity to conclude the agreement under the law of the requested State;
- (c) the document which instituted the proceedings or an equivalent document, including the essential elements of the claim,
 - (i) was not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant entered an appearance and presented his case without contesting notification in the court of origin, provided that the law of the State of origin permitted notification to be contested; or
 - (ii) was notified to the defendant in the requested State in a manner that is incompatible with fundamental principles of the requested State concerning service of documents;
- (d) the judgment was obtained by fraud in connection with a matter of procedure;
- (e) recognition or enforcement would be manifestly incompatible with the public policy of the requested State, including situations where the specific proceedings leading to the judgment were incompatible with fundamental principles of procedural fairness of that State;
- (f) the judgment is inconsistent with a judgment given in the requested State in a dispute between the same parties; or
- (g) the judgment is inconsistent with an earlier judgment given in another State between the same parties on the same cause of action, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.

Article 10

Preliminary questions

- (1) Where a matter excluded under Article 2, paragraph 2, or under Article 21, arose as a preliminary question, the ruling on that question shall not be recognised or enforced under this Convention.
- (2) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment was based on a ruling on a matter excluded under Article 2, paragraph 2.
- (3) However, in the case of a ruling on the validity of an intellectual property right other than copyright or a related right, recognition or enforcement of a judgment may be refused or postponed under the preceding paragraph only where—
 - (a) that ruling is inconsistent with a judgment or a decision of a competent authority on that matter given in the State under the law of which the intellectual property right arose; or
 - (b) proceedings concerning the validity of the intellectual property right are pending in that State.
- (4) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment was based on a ruling on a matter excluded pursuant to a declaration made by the requested State under Article 21.

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Article 11

Damages

- (1) Recognition or enforcement of a judgment may be refused if, and to the extent that, the judgment awards damages, including exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered.
- (2) The court addressed shall take into account whether and to what extent the damages awarded by the court of origin serve to cover costs and expenses relating to the proceedings.

Article 12

Judicial settlements (*transactions judiciaires*)

Judicial settlements (*transactions judiciaires*) which a court of a Contracting State designated in an exclusive choice of court agreement has approved, or which have been concluded before that court in the course of proceedings, and which are enforceable in the same manner as a judgment in the State of origin, shall be enforced under this Convention in the same manner as a judgment.

Article 13

Documents to be produced

- (1) The party seeking recognition or applying for enforcement shall produce—
 - (a) a complete and certified copy of the judgment;
 - (b) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence;
 - (c) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party;
 - (d) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the State of origin;
 - (e) in the case referred to in Article 12, 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.
- (2) If the terms of the judgment do not permit the court addressed to verify whether the conditions of this Chapter have been complied with, that court may require any necessary documents.
- (3) An application for recognition or enforcement may be accompanied by a document, issued by a court (including an officer of the court) of the State of origin, in the form recommended and published by the Hague Conference on Private International Law.
- (4) If the documents referred to in this Article are not in an official language of the requested State, they shall be accompanied by a certified translation into an official language, unless the law of the requested State provides otherwise.

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Article 14

Procedure

The procedure for recognition, declaration of enforceability or registration for enforcement, and the enforcement of the judgment, are governed by the law of the requested State unless this Convention provides otherwise. The court addressed shall act expeditiously.

Article 15

Severability

Recognition or enforcement of a severable part of a judgment shall be granted where recognition or enforcement of that part is applied for, or only part of the judgment is capable of being recognised or enforced under this Convention.]

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