

Conference on Cross-Border Recognition and Enforcement of Judgments
Ministry of Justice of the Russian Federation in Saint Petersburg
(11 St Isaac's Square) 17
June 2014

QUESTIONNAIRE

The purpose of the Questionnaire is to collect information from States regarding the recognition and enforcement of foreign judgments and issues of international jurisdiction.

The concept for the roundtable discussion session stems from the work the Permanent Bureau is currently undertaking on two key aspects of private international law in crossborder litigation: international jurisdiction and the recognition and enforcement of foreign judgments. A detailed chronology setting out the background of the work undertaken by the Hague Conference in this area is located on the Hague Conference website < www.hcch.net > under "Specialised Sections" then "[Judgments Project](#)".

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

The detailed information provided in response to this Questionnaire will help the Hague Conference with its ongoing work on the Judgments Project and will hopefully be of use to participants beyond this Conference.

The Permanent Bureau would very much appreciate receiving your response to this Questionnaire by 30 May 2014. Responses should be sent by e-mail to < secretariat@hcch.net > with the following heading and indication in the subject field: "Questionnaire concerning the Judgments Project – [name of State]". Your co-operation in responding to this Questionnaire is very much appreciated and will greatly assist during the roundtable discussion session.

PART I – RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION

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

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

YES
 NO

If yes, please specify.

Estonia has international agreements with Ukraine and Russian Federation, which cover recognition and enforcement of judgements.

As Estonia is a member of European Union we apply Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Council Regulation 2201/2003/EC concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation 1347/2000/EC, Regulation (EC) No 805/2004 of the European Parliament and of the Council, creating a European Enforcement Order for uncontested claims (OJ L 143, 30.04.2004, pp. 15–39), Regulation (EC) No 896/2006, Regulation (EC) No 861/2007, Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

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

YES
 NO

If yes, please specify.

The rules of recognition and enforcement of foreign court judgements are in chapter 62 in Code of Civil Procedure.

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

Please specify.

A petition for recognition or enforcement of a decision of a court is filed with the court of the residence or seat of the debtor, or with the court within whose territorial jurisdiction the conduct of enforcement proceedings is sought, unless otherwise provided by an international agreement.

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

YES
 NO

If yes, under what circumstances (*e.g.*, the jurisdiction of the foreign court must be recognised, the respondent to the application for recognition and

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enforcement must have assets in your State, the judgment must be a monetary judgment that is final and conclusive)?

A petition for declaring a court decision of a foreign state enforceable is submitted in writing, and the following is annexed thereto:

- 1) a transcript of the court decision authenticated pursuant to the requirements of the law of the state of the location of the court which made the decision;
- 2) a document which confirms that an action, summons or other document initiating the proceeding has been served in time on at least one occasion pursuant to the law of such state on the defendant or based on the decision, on another debtor who did not participate in the proceeding;
- 3) a document which certifies that the decision has entered into force pursuant to the law of the state where the decision was made and has been communicated to the defendant or based on the decision, another debtor;
- 4) documents concerning the enforcement of the decision if enforcement has already been attempted;
- 5) documents concerning the enforcement of the decision if the decision has already been enforced;
- 6) translations into Estonian of the documents specified in clauses 1)–5) of this subsection made by a sworn translator or authenticated by a notary.

A court may set the petitioner a term for submission of the documents specified in subsection (1) of this section. If the circumstances allow, the court may adjudicate a matter without requiring such documents.

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

- YES
 NO

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

A court decision in a civil matter made by a foreign state is subject to recognition in the Republic of Estonia, except in the case where:

- 1) recognition of the decision would be clearly contrary to the essential principles of Estonian law (public order) and, above all, the fundamental rights and freedoms of persons;
- 2) the defendant or other debtor was unable to reasonably defend the rights thereof and, above all, if the summons or other document initiating the proceeding was not served on time and in the requisite manner, unless such person had a reasonable opportunity to contest the decision and the person failed to do so within the prescribed term;
- 3) the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court;
- 4) the decision is in conflict with a decision of a foreign court in the same matter between the same parties which has been earlier recognised or enforced in Estonia;
- 5) the decision is in conflict with a decision made in a foreign state in the same matter between the same parties which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia;

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6) the court which made the decision could not make the decision in compliance with the provisions of Estonian law regulating international jurisdiction.

A court decision of a foreign state is recognised in Estonia only if the decision has entered into force pursuant to the law of the state which made the decision unless, pursuant to law or an international agreement, such decision is subject to recognition and enforcement as of the time such decision can be enforced in the state of the location of the court which made the decision.

These grounds for refusal can be raised on the court's own motion or by the party opposing the recognition and enforcement of a foreign judgment.

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

- YES
 NO

If yes, please describe the procedure.

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

Judgments entered in default Comments.

Provisional and protective measures Comments.

Non-money judgments Comments.

Judgments awarding non-compensatory damages Comments.

Other.

If other, please specify.

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

- YES
 NO

If yes, under what circumstances.

If a court decision declared to be subject to enforcement is annulled or amended in the state of the location of the court which made the decision, and the debtor can no longer rely on such fact in the proceeding for declaring the decision enforceable, the debtor may file a petition for annulment or

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amendment of the declaration of enforceability of the decision with the court which declared the decision to be subject to enforcement.

The claimant and the debtor can appeal a court decision if they found that court have been mistaken applying the law.

9. What is the frequency of applications for recognition and enforcement of foreign court decisions per year? It is appreciated that this information may not be readily available in your Ministry; however such information may possibly be obtainable from the courts in your State.
- 0-5
 - 5-10 10-20
 - more than
 - 20.

Any comments.

10. How many applications for the recognition and enforcement of a foreign court decision are granted in your State?
- 0-5
 - 5-10 10-20
 - more than
 - 20.

Any comments.

PART II – JURISDICTIONAL REQUIREMENTS

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

- YES
- NO

If yes, please specify.

European Union Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Council Regulation (EC) 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Council Regulation (EC) No 1347/2000 and Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

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

- YES
- NO

If yes, please specify.

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The provisions concerning international jurisdiction determine the circumstances under which a matter can be adjudicated by an Estonian court.

A matter falls under the jurisdiction of an Estonian court if an Estonian court can adjudicate the matter according to competence and pursuant to the provisions concerning jurisdiction or based on an agreement on jurisdiction, unless otherwise provided by law or an international agreement.

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

YES

NO

Comments

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

where the defendant voluntarily submits to the jurisdiction

Comments

where the defendant is domiciled or resides in your State

Comments

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

An action involving a proprietary claim can be filed against a natural person also with the court of his or her place of stay if the person has stayed in such place for a longer period of time due to an employment or service relationship, studies or for other such reason.

An action related to the economic or professional activities of the defendant can also be filed with the court of the place of business thereof.

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

An action arising from a contract or an action for ascertainment of the invalidity of a contract can also be filed with the court of the place of performance of the contested contractual obligation.

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

An action arising from a contract or an action for ascertainment of the invalidity of a contract can also be filed with the court of the place of performance of the contested contractual obligation.

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

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

An action for compensation for illegally caused damage can also be filed with the court of the place of performance of the act or occurrence of the event which caused the damage or the place where the damage was caused.

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

An action for compensation for illegally caused damage can also be filed with the court of the place of performance of the act or occurrence of the event which caused the damage or the place where the damage was caused.

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

If a person has residence or seat in a foreign state, an action involving a proprietary claim can be filed against such person with the court of the location of the property with respect to which the claim is filed or with the court of the location of other property of the person.

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Other

Please specify

5. Is the nature of the above-mentioned grounds such that without these present a court is not entitled to hear a case?

YES

NO

Comments.

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

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

If an action with the same content between the same parties has been accepted by a competent court of a foreign state by jurisdiction before the action was filed with an Estonian court, the Estonian court accepts the action provided that the other conditions for acceptance of the matter are fulfilled but suspends the proceeding if it may be presumed that the court of the foreign state makes a decision within a reasonable amount of time and such decision will be recognised in the Republic of Estonia (Estonian Code of Civil Procedure).

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

Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

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

Estonian Code of Civil Procedure and Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

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

other
Please indicate.