

HAGUE JUDGMENTS CONVENTION

UK JOINS NEW REGIME TO SIMPLIFY CROSS-BORDER ENFORCEMENT OF JUDGMENTS

The UK has ratified the [2019 Hague Judgments Convention](#). When it comes into force for the UK next July, it will make it significantly easier to enforce a wide range of English court judgments in 28 countries - including all but one of the EU's member states - and vice versa.

UK participation in the Convention will restore a level of reciprocal enforcement with the EU not known since the end of the Brexit transition period.

In this briefing we summarise how the Convention works, the judgments it applies to and the impact it could have on cross-border commerce.

Context and current position

Commercial parties who obtain a court judgment in one country will often want to enforce that judgment in another country - usually because a defendant has assets in the second country that can be used to satisfy the judgment debt.

But enforcing a judgment in another country can be complicated. Each country has its own rules regulating whether and how foreign judgments can be enforced. Getting appropriate foreign law advice, and following the relevant local enforcement process, can incur delays and expense.

When the UK was a member of the EU, it benefitted from a common set of rules designed to facilitate the free movement of judgments between the member states. The latest iteration of those rules, in the Recast Brussels Regulation, made intra-EU judgment enforcement a streamlined, near automatic process in many cases. Those rules ceased to apply in and to the UK from 1 January 2021, subject to transitional provisions for judgments given in cases started before that date.

The Hague Judgments Convention establishes a new international framework for the enforcement of judgments, open to all countries that wish to participate. While less sophisticated and prescriptive than the equivalent European rules, the Convention is still a game-changer: it has the potential to become a litigation equivalent to the 1958 New York Convention which provides for the cross-border enforcement of arbitral awards.

Key points to note

- The Hague Judgments Convention is an international agreement by which the courts of contracting states must recognise and enforce certain judgments of other contracting state courts.
- The Convention applies to money and non-money judgments in civil and commercial matters. Key exclusions are intellectual property, insolvency and arbitration cases.
- A judgment will be enforced if a party can show that there is a qualifying connection between the judgment debtor and the contracting state whose courts originally gave the judgment.
- There are only limited defences to enforcement and the enforcing court is not permitted to review the merits of the original judgment.
- The Convention enters into force for the UK on 1 July 2025 and will only apply to judgments in claims started after that date.

The EU acceded on behalf of all the member states save Denmark with effect from September 2023. The UK ratified the Convention in June, and it will enter into force for the UK next July. It will be the 29th participating country.

How does the Convention work?

The Convention establishes a framework of minimum rules which the courts of contracting states are bound to apply. It defines the judgments to which it applies, sets out the bases on which those judgments will be eligible for recognition or enforcement, and specifies the (limited) circumstances in which enforcement can be resisted. It is for individual contracting states to design and implement their own domestic rules to give effect to the Convention.

Which countries are party to the Convention?

The table below sets out the countries have ratified or acceded to the Hague Convention and the date on which the Convention entered into force for each country.¹ This date is important, because the Convention only applies to judgments given in cases started at a time when it is force in both the state in which the judgment is given and the state in which enforcement is sought.

Contracting state	Entry into force
EU member states, except Denmark	1 September 2023
Ukraine	1 September 2023
Uruguay	1 October 2024
United Kingdom	1 July 2025

For the UK, the practical effect of this is that judgments of English courts will only be enforceable in other contracting states (and vice versa) where they are made in claims started on or after 1 July 2025.

What matters are within the Convention's scope?

The Convention applies to judgments in "civil or commercial matters". This is a broad concept and a familiar one in the context of private international law, but it is subject to certain exclusions. Some are more obvious than others: criminal and public law matters - e.g. tax, customs, constitutional and administrative law issues - are all outside the Convention's scope.

Other notable exclusions include matters relating to insolvency, intellectual property, arbitration and defamation.

Judgments in competition matters are capable of enforcement under the Convention, but only to the extent they are based on cartel conduct which both occurred and produced effects in the state whose courts gave judgment. Judgments in other competition matters are excluded.

The Convention applies to judgments in cases involving companies, individuals and governments or government entities (provided they are acting as private parties could and not exercising sovereign powers).

What kinds of judgments are enforceable?

A judgment is defined as a decision by a court on the merits of a dispute, including a default judgment (i.e. one given where a defendant has been validly notified of a claim but has failed to respond to it). It includes judgments which award a sum of money and those which grant non-monetary relief - e.g. final injunctions requiring a defendant to do or not do something. Judgments awarding a party its costs of litigation are also included.

But interim injunctions or other measures of protection, which in an English context might include an injunction freezing a defendant's assets so they remain available to satisfy any final judgment on the merits a court in due course may make, are excluded. This does not prevent a person with the benefit of an interim injunction seeking to enforce that order in a contracting state under the national laws of the relevant country.

Enforcement of a qualifying judgment may be postponed or refused if the time for appealing it has not expired.

What needs to be shown for a judgment to be enforced?

In summary, a judgment can be enforced if a sufficient connection can be shown between the country whose court gave the judgment and the defendant or the claim. These qualifying connections are listed exhaustively in the Convention. They include:

- The judgment debtor was habitually resident in the state whose court gave the judgment at the time the claim was begun. In the case of a company, habitual residence equates to the country in which it was incorporated or has its principal place of business, and the activities of a company's branch in a

¹ A number of other countries have signed but not yet ratified the Convention: the United States, Israel, Russia, Montenegro, Costa Rica and North Macedonia.

particular country can also constitute a qualifying connection.

- The judgment debtor consented to the jurisdiction of the court which gave judgment against it in the relevant claim.
- The judgment debtor submitted to the jurisdiction of the court which gave judgment against it by declining to argue that it had no jurisdiction.
- In certain circumstances, the judgment relates to a contractual obligation and the relevant obligation took place or should have taken place in the country whose courts gave judgment.
- The judgment was given by a court which was designated in a non-exclusive jurisdiction agreement (see below for the position of exclusive jurisdiction agreements).

A central point to note is that the Convention prohibits the court of a state in which enforcement is sought from reviewing the merits of the original judgment.

When can enforcement be refused?

A court is entitled (but not obliged) to refuse recognition or enforcement of a judgment which otherwise meets the criteria discussed above if one or more of seven grounds is met. Broadly speaking, these are founded on breaches of natural justice and public policy considerations in the state in which enforcement is sought. For example:

- The defendant was not notified, or not adequately notified, of the proceedings against them, and/or was deprived of the opportunity to present their case.
- The judgment that is sought to be enforced was procured by fraud.
- Enforcement of the judgment would conflict with rules of public policy in the enforcing state.
- The judgment was made in proceedings that were brought in breach of an agreement to sue or arbitrate in another forum.
- The judgment is inconsistent with an earlier judgment between the same parties on the same subject in the courts of the enforcing state (or,

potentially, in other states, including those not a party to the Convention).

What is the procedure for enforcement?

Subject to the overarching obligations set out in the Convention, which include an obligation on the courts of an enforcing state to act expeditiously, it is for each contracting state to determine its own procedural rules for enforcement.

In England, the government has decided that a party wishing to enforce a qualifying judgment must make an application to the High Court for the judgment to be registered. They will need to persuade the court that the requirements summarised above are satisfied in respect of the judgment. The judgment debtor will not be permitted to make submissions at this stage, and the court is not entitled to consider on its own initiative whether any of the grounds to refuse enforcement are made out. Once a judgment is registered, it will be enforceable in England as if it were a judgment of the English court.

Once a foreign judgment is registered, the judgment debtor will have a right to apply to court to have registration set aside, either on the basis that the judgment did not, in fact, satisfy the criteria in the Convention, or that enforcement should nevertheless be refused on one or more of the grounds described above.

Why doesn't the Convention apply to judgments in claims founded on exclusive jurisdiction agreements?

Because these judgments are separately enforceable in accordance with another Hague Convention: the 2005 Convention on Choice of Court Agreements. The EU member states² and the UK (among others) are already a party to that Convention.

When does the Convention come into force for the UK?

The Convention will come into force for the UK on 1 July 2025. As noted above, where enforcement is sought of a judgment of another contracting state in England, or vice versa, the Convention will only be capable of applying to qualifying judgments in claims that are started on or after that date.

² Including Denmark, in contrast to the position under the 2019 Hague Convention.

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