Recognition and Enforcement of Foreign Judgments between Greece and Albania

Introduction. The recognition and enforcement of foreign judgments constitute an important subject of private international law. Their significance is particularly evident in family law disputes, such as divorce, child custody, and maintenance, in which the effectiveness of a judicial decision frequently depends on its recognition or enforcement in more than one legal system. In relations between Greece and Albania, a principal legal instrument is the Convention on Judicial Assistance in Civil and Criminal Matters, signed on 17 May 1993 and ratified by Law No. 2311/1995. The Convention establishes the conditions under which judgments delivered by the courts of one Contracting State may be recognised and enforced in the other. By virtue of the superior force accorded to international conventions that have been ratified and brought into force under Article 28(1) of the Greek Constitution, the relevant provisions of the Convention take precedence over the corresponding general provisions of the Greek Code of Civil Procedure (CCP). Against this background, the present analysis examines indicatively two decisions of the Thessaloniki Court of First Instance concerning the recognition in Greece of judgments delivered by Albanian courts dissolving marriages. The first decision also concerns an application for a declaration of enforceability in respect of a provision relating to child maintenance. The second highlights the importance of establishing the final and *irrevocable* character of a foreign divorce judgment and the need to supplement the evidence before a final determination can be made.

1. **Legal Framework of the Bilateral Convention.** The Greece–Albania Convention, ratified by Law No. 2311/1995, constitutes the special legal framework governing the recognition and enforcement of judgments. Articles 23 and 24 establish the substantive requirements for recognition and enforcement, while Articles 26 and 27 govern the procedure and related matters concerning the submission and examination of applications. Articles 323 and 905 CCP apply on a supplementary basis, insofar as they are not inconsistent with the Convention. Article 323 CCP sets out, inter alia, the conditions for recognising the res judicata effect of

foreign judgments, whereas Article 905 CCP provides for the procedure by which foreign instruments may be declared enforceable in Greece.

1.1. Conditions for Recognition and Enforcement, Under Articles 23 and 24 of the Convention, recognition and enforcement are, in principle, subject to the following conditions:

1. The judgment has acquired the force of res judicata and is enforceable under the law of the state in which it was delivered.

1. The courts of the state in which recognition or enforcement is sought do not have exclusive international jurisdiction over the matter.

1. A party who did not participate in the proceedings or against whom judgment was entered in default was duly and timely served with the relevant process or was lawfully represented, where required.

1. The Convention excludes service by affixing the document to the door of the relevant premises (*affixation service*) as a sufficient method of service for the purposes of this examination.

1. There is no irreconcilable prior judgment between the same parties concerning the same subject matter and cause of action, nor any previously instituted pending action before the courts of the state in which recognition is sought, subject to the conditions laid down in the Convention.

1. Recognition or enforcement is not contrary to the public policy or fundamental principles of the legal order of the requested state.

Recognition additionally requires examination of the international jurisdiction of the court of origin in accordance with the applicable treaty and domestic legal framework. The foreign judgment may not be reviewed as to the substantive correctness of its determination. The examination concerns the legal requirements governing the circulation of the judgment across borders, rather than a retrial of the original dispute.

1.2. Required Documents and Procedure. Article 26(2) of the Convention provides that an application must be accompanied by the judgment or a certified copy thereof, together with a document certifying that the judgment has acquired

the force of res judicata and is enforceable, unless these matters are apparent from the judgment itself. A certificate concerning service of process and the lawful representation of a party against whom judgment was entered in default must also be submitted, where applicable, together with certified translations of the documents into a language accepted under the Convention. The production of an Apostille under the Hague Convention may serve to authenticate a public document where the relevant international convention applies. **It does not, however, establish, by itself, that a judgment has become final and irrevocable** or that all the requirements have been satisfied.

2. **Decision No. 3144/2026.** Decision No. 3144/2026 concerns an application by a Greek national seeking recognition in Greece of a judgment delivered by the Court of General Jurisdiction of Elbasan, Albania. The Albanian judgment dissolved the applicant's marriage, awarded custody of the minor child to his former wife, and regulated the father's right of contact with the child. In addition, the applicant sought a declaration of enforceability in respect of the provision which, according to the terms of his application, required him to pay monthly maintenance. The Albanian judgment had become final and irrevocable, as indicated by an endorsement appearing on the judgment itself.

2.1. Application of the Convention. The court held that the Convention ratified by Law No. 2311/1995 took precedence over the general provisions of the CCP. It examined whether the Albanian court possessed international jurisdiction, whether the parties' right to participate in the proceedings had been safeguarded, and whether any ground existed for refusing recognition on public policy grounds. With regard to international jurisdiction, the court took into account that the spouses' last common residence had been in the Municipality of Gramsh, Albania. It held that the matrimonial dispute fell within the jurisdiction of the Albanian court and that the joinder of the issues of custody and contact with the matrimonial dispute justified their examination by the same court. As regards the right to be heard, the court established that the former wife had been represented by a lawyer authorised to act on her behalf and that the applicant had participated in an earlier hearing at which an attempt at reconciliation had been made. He had been informed of the subsequent hearing date and had stated that he was unable to attend, requesting that the proceedings continue in his absence. Although the applicant was recorded as having been absent from the

hearing, the court held that, in light of the specific circumstances, no additional certificate of service was required. This conclusion was based on his knowledge of the proceedings and the fact that he had had a genuine opportunity to participate.

2.2. The Enforcement of Maintenance Provision. The most significant issue arising from the decision concerns the application for a declaration of enforceability in respect of the maintenance provision. The court dismissed this part of the application as inadmissible for lack of standing. The reasoning was that the right to apply for a foreign instrument to be declared enforceable generally belongs to the person entitled to initiate enforcement proceedings, namely the creditor in respect of the relevant claim. In the present case, the applicant was the person liable to pay maintenance, rather than the person entitled to receive it. Accordingly, he could not himself seek to have the obligation to pay maintenance declared enforceable against him. The court's determination is correct insofar as it distinguishes between creditor and debtor for the purposes of standing. It should be clarified that dismissal of this particular claim does not mean that the maintenance provision was held to be invalid or legally ineffective. Rather, it means that the application was brought by a person who lacked standing to seek the particular procedural relief requested.

2.3. Assessment. Decision No. 3144/2026 correctly applies the fundamental principle that an applicable international convention takes precedence over the general rules of the CCP. It also highlights the importance of the party's genuine opportunity to participate in the foreign proceedings and the distinction between recognition of personal status and enforcement of a monetary claim. A particularly positive aspect of the Court's approach is its recognition that an application for recognition should not be dismissed solely on account of formal evidentiary deficiencies without first examining whether the relevant facts can be established through other reliable documents. Nevertheless, dispensing with the production of a certificate of service must be approached with caution. The Convention seeks to provide substantive protection for a party who did not participate in the proceedings. The decision promotes effective cross-border protection of family relationships while preserving procedural guarantees required for recognition of foreign judgments.

3; Decision No. 20256/2026. Thessaloniki First Instance Court

3.1. Subject Matter and Facts. Decision No. 20256/2026 concerns an application for recognition in Greece of a judgment delivered by the Court of the Judicial District of Durrës, Albania, dissolving the civil marriage between a Greek national and his former wife, an Albanian national. The marriage had been celebrated in Durrës and registered both with the competent civil registry in Albania and with the Special Registry Office in Athens. According to an endorsement appearing on the judgment itself, the Albanian judgment had become final. The applicant submitted the judgment and documents establishing his participation in the proceedings through a lawyer authorised to represent him.

3.2. The Requirements for Recognition and Public Policy. The court reiterated that the bilateral Convention constituted the principal applicable legal framework, with Articles 323 and 905 CCP operating on a supplementary basis. It held that the Albanian court had international jurisdiction, given that the spouses' last common residence had been in Albania. It further found that the applicant had not been deprived of his right to defend his interests, since he had been represented by a lawyer authorised to act on his behalf, while his former wife had instituted the proceedings and participated in them. The court also found no conflict with Greek public policy and no irreconcilable Greek judgment concerning the same matter. These circumstances supported recognition. However, the court found that one crucial additional requirement had not been established: whether the judgment had attained the degree of procedural finality necessary for it to produce the legal effect of dissolving the marriage in Greece.

3.3. Significance of the Judgment's Final & Irrevocable Character. Under Article 1438 CC, Greek law requires a final and irrevocable judicial decision for a marriage to be dissolved. Accordingly, recognition of a foreign divorce judgment presupposes that the judgment has attained the corresponding degree of procedural finality under the applicable rules. In the present case, the endorsement submitted established that the judgment had become final on 27 December 2022, but did not necessarily establish that it had become irrevocable. No certificate or other sufficient evidence had been submitted to demonstrate that the Albanian judgment could no longer be challenged by an ordinary or extraordinary legal remedy, or that it had attained a degree of finality equivalent to that required under Greek law for the legal effects of divorce to arise; the court did not consider that this deficiency necessarily warranted the definitive dismissal of the application. Instead, it relied on Article 254 CCP, which also applies in non-

contentious proceedings, and ordered that the hearing be resumed so that the necessary documents could be produced. In particular, the court required the submission of a certificate or legal information establishing the requisite degree of procedural finality, or clarifying the relevant provisions of Albanian law. It also requested updated certificates confirming the absence of any related proceedings or judgment in Greece.

3.4. Assessment of the Decision. This decision is particularly significant because it demonstrates that *finality* and *irrevocability* are not necessarily synonymous legal concepts. The mere fact that no appeal has been lodged, or that the time limit for lodging one has expired, does not invariably establish that all available legal remedies have been exhausted or that the degree of finality has been attained. The court was therefore correct to refrain from recognising the foreign judgment immediately, without first clarifying this essential requirement. Equally sound was its decision to resume the hearing rather than dismiss the application. This approach serves procedural economy and permits evidentiary deficiencies to be remedied. It is also consistent with the approach commonly adopted by Greek courts, subject to relatively few exceptions.

4. **Comparative Assessment of the Decisions.** The two Albanian judgments share a common starting point, as both apply the Greece–Albania Convention as the special legal framework governing the recognition of foreign judgments in family law matters. In both cases, the court examines the international jurisdiction of the Albanian court, the participation of the parties, the absence of an inconsistent Greek judgment, and compatibility with public policy. The principal difference lies in the procedural treatment of the applications. Taken together, the decisions demonstrate that recognition of a foreign judgment is neither automatic nor dependent solely on the production of a certified copy. It requires a comprehensive examination of the applicable treaty and domestic-law requirements, with particular emphasis on international jurisdiction and the protection of the parties' procedural rights.

5.Conclusion. The bilateral agreement between Greece and Albania is the most active treaty among the rest in Greece. The decisions of the Thessaloniki Court of First Instance demonstrate the importance of the Greece–Albania Convention on Judicial Assistance for the effective cross-border protection of family relationships. The precedence of the Convention over the general rules of the

Code od Civil Procedure contributes to a clearer framework for recognition and enforcement, while domestic provisions supplement that framework where permitted. The effective application of the Convention requires careful examination of each individual case. Only in this way can foreign judgments be ensured of their appropriate legal effects in Greece and Albania without compromising the fundamental principles of either legal order.

For more information see my article: Recognition and Enforcement of Foreign Judgments in the Field of Bilateral Conventions of Greece with Balkan States, Balkan Yearbook of European and International Law 2021, pp. 206 et seq. https://www.academia.edu/67760009/Recognition_and_Enforcement_of_Foreign_Judgments_in_the_Field_of_Bilateral_Conventions_of_Greece_with_Balkan_States,.

An extensive analysis of the Treaty (in Greek) may be found in: https://www.sakkoulas.gr/en/editions/a-anthimos-allodapes-dikastikes-kai-diaititikes-apofaseis-2i-ekd-2024/.

Brazil's Superior Court Invokes *Forum Non Conveniens*: Is that Really What They Mean?

This post was written by Luana Matoso, the Head of the Centre of Expertise on Latin America at the Max Planck Institute for Comparative and International Private Law in Hamburg.

On September 1, 2026, Brazil's Superior Court of Justice invoked the doctrine of *forum non conveniens* in declining jurisdiction to hear a dispute. It is the first time this court has done so in a transnational case. Does the judgment represent the reception of *forum non conveniens* into Brazilian law? The answer is less straightforward than the terminology used by the court might suggest.

The Dispute

The claim was brought before a local court in São Paulo by a former Argentine professional football player domiciled in Buenos Aires who sought damages for the allegedly unauthorized use of his image in the FIFA Soccer video-game series. The defendants were Electronic Arts Europe Ltd and Electronic Arts Nederland B.V., incorporated in the United Kingdom and the Netherlands, respectively.

The claimant relied on the fact that the games were sold in Brazil in order to establish jurisdiction under Art. 21(3) of the Brazilian Code of Civil Procedure (CCP), which provides for Brazilian jurisdiction where "the basis of the claim is a fact occurring or an act performed in Brazil." The first-instance court found it had no jurisdiction and dismissed the claim. The decision was upheld on appeal by the São Paulo Court of Appeals and, upon further appeal, by Brazil's Superior Court of Justice. Both courts invoked *forum non conveniens* in their decisions.

The approach of these courts to jurisdiction is highly relevant for transnational litigation practice in Brazil. São Paulo is Brazil's principal economic center, and its courts deal with a substantial volume of litigation involving foreign elements. The Superior Court of Justice, in turn, is Brazil's highest court for matters of federal law other than constitutional questions and is responsible for ensuring its uniform interpretation throughout the country. The Superior Court's endorsement of the approach taken in São Paulo could therefore represent a recognition of *forum non conveniens* not only in one of Brazil's most prominent centers for transnational disputes, but also as part of Brazilian law.

Forum Non Conveniens Without a Basis for Jurisdiction

The Superior Court's reasoning began with an approach familiar to the civil law tradition. It first advanced a purposive construction (teleological interpretation) of Article 21(3) of the CCP, identifying the "principles of proximity and state interest" as underlying the requirement of a factual connection with Brazil.

The court emphasized that the claimant was an Argentine citizen domiciled in Argentina who had never played professionally for a Brazilian team; that the defendants were companies incorporated abroad; and that the video games were actually sold by third-party retailers, who were not parties to the proceedings. It

added that exercising jurisdiction in this case would unnecessarily burden the Brazilian judicial system, which would be contrary to the purpose of the connection requirement. In light of those circumstances, the court found no basis for jurisdiction in the case.

Doctrinally speaking, this may have been sufficient to dismiss the claim. Yet the court immediately added: "Accordingly, the choice of the Brazilian forum must be regarded as abusive, given the absence of a substantial connection with Brazil, in light of the doctrine of *forum non conveniens*."

The role of *forum non conveniens* is unclear here. Under the common law approach, *forum non conveniens* presupposes that a court *has* jurisdiction but decides not to *exercise* it. Having found that jurisdiction does not exist under Article 21(3) of the CCP, nor under any other basis, the court had no occasion to consider whether to decline to exercise jurisdiction. Nor did it explain the doctrine's requirements, articulate a test, or identify an alternative forum better suited to hear the claim.

A Departure from Earlier Case Law?

The court also offered no explanation for invoking a doctrine that it had on previous occasions expressly refused to apply. In two prior judgments, the court had highlighted that the common law origins of *forum non conveniens* are difficult to reconcile with Brazil's civil law tradition. In 2009, the court concluded that *forum non conveniens* "finds no support in Brazilian procedural rules"; in 2016, it stated that Brazilian law does not have a "positive rule capable of permitting this practice."

In 2023, however, the court applied *forum non conveniens* in a dispute concerning the allocation of domestic competence. The case concerned child custody, involving a parent alleged to have committed a crime against the child. Although the judgment is not publicly available, the court's official account states that it relied on *forum non conveniens* to refer the case to another judge better situated to hear it. The court recognized this as an "implicit exception" to the ordinary rules of domestic competence, applicable to cases where a competent court is not "adequate or convenient" for the hearing of the claim.

Now, the court has invoked *forum non conveniens* to decline jurisdiction in a

transnational dispute, but without treating it as an exception to its jurisdictional rules.

Forum Non Conveniens as a Response to Forum Shopping

This case reveals a trend in the Brazilian approach to jurisdiction. Namely, Brazilian courts are increasingly seeking to curb forum shopping by invoking their reaffirmed or expanded powers to dismiss claims that do not engage local interests.

The reasoning of the Court of Appeals illustrates this point. It only briefly addresses the interpretation of Article 21(3) of the CCP, while focusing on the *motivations* of the claimant for bringing the claim in Brazil. Forum shopping is expressly identified as the court's main ground for dismissing the claim. The court states that the claimant sued in São Paulo for "purely strategic reasons, with the aim of obtaining a swift financial gain, given this Court's settled case law awarding moral damages against the respondents in favor of Brazilian athletes." The court even notes that the claimant's attorney was involved in several other similar cases, including in its ruling a link to an article in a local online newspaper in which the attorney is mentioned. Indeed, this type of claim has become remarkably popular among (Brazilian) football players. Today, there are thousands of disputes on this issue pending in Brazil (see e.g. the Superior Court's Tema Repetitivo No. 1.289).

This was also not the first time that the Court of Appeals of São Paulo invoked *forum non conveniens*. In fact, this court has repeatedly invoked the doctrine in recent years, particularly to dismiss claims in domestic disputes where local interests are not concerned. The application of *forum non conveniens* is generally justified with reference to forum shopping, with courts noting the parties' wish to benefit from the (perceived) greater efficiency of courts in São Paulo in relation to other local courts in Brazil.

The 2024 Amendment to the Brazilian CCP

This anti-forum shopping trend can also be seen in another development in the Brazilian law of jurisdiction, which I have also reported on here: the 2024 amendment to the Brazilian rules governing (domestic) choice of court

agreements.

That amendment restricts the enforcement of choice of court agreements in cases where the court selected by the parties has no connection to the dispute. The law now characterizes the act of bringing a claim before a court which has no connections to the dispute as "abusive" and gives courts the power to dismiss such claims on their own initiative.

Unsurprisingly, both the Superior and the Court of Appeals used the term "abusive" in the present case, which can be seen as a direct reference to the amended Article 63(5) of the CCP. In fact, the Court of Appeals expressly invoked this provision as an additional basis upon which the claim could be dismissed.

Forum Non Conveniens as a Rhetorical Tool

Taking all these considerations into account, what did the Brazilian Superior Court mean when it invoked *forum non conveniens*?

In this case, it can be concluded that *forum non conveniens* functioned principally as an oratorical reaction to (undesired) forum shopping. Its significance was more rhetorical than doctrinal. As has been shown, invoking *forum non conveniens* was doctrinally unnecessary once the court found no basis for jurisdiction. Yet the court wished to emphasize its own role in declining jurisdiction where contacts with the forum are insufficient. From this perspective, *forum non conveniens* provided the court with an argumentative framework in which public and local interests could stand at the forefront the courts' reasoning rather than being disguised under certain methods of statutory interpretation.

In terms of a clear reception of *forum non conveniens* into Brazilian law, the decisive question remains whether the Superior Court will rely on the doctrine to decline jurisdiction in a case where a jurisdictional basis *does exist*. Until that day arrives, the Superior Court's use of the term in this case–and its repeated use by regional courts–reflects a growing emphasis by Brazilian courts on their own powers to decline jurisdiction on the basis of public or local interests.

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Recognition of a Kosovar Judgment in Greece

1. **Introduction.** Decision No. 21257/2026 of the Thessaloniki Court of First Instance is of particular interest in the fields of private international law and international civil procedure, as it concerns the recognition in the Greek legal order of a judgment of a foreign court dissolving a marriage, where the state in which that court operates is not officially recognised by Greece as an independent state. The issue assumes additional significance because the judgment originates from Kosovo, whose international legal status continues to be the subject of divergent positions within the international community.

The principal question is whether Greece's non-recognition of Kosovo automatically precludes recognition of the legal effects of a judicial decision rendered within its territory, or whether such effects may be recognised without prior diplomatic recognition of the entity concerned as a state.

The Court adopted the latter approach. It granted the application and recognised that the judgment of the Kosovo court dissolving the applicant's civil marriage had acquired the force of res judicata within Greek territory.

2. **Facts and Reasoning of the Court.** According to the facts of the case, the Greek applicant entered into a civil marriage with K. on 20 October 2020 before the civil registry authority in Kosovo. The marital relationship irretrievably broke down, and the marriage was dissolved by a judgment of a Kosovo court following divorce proceedings instituted by the husband against the applicant. The foreign judgment contained no statement of reasons because, according to the evidence accepted by the Greek Court, the parties had not requested that reasons be included and had waived their rights to appeal, pursuant to Article 161 of Kosovo's law governing

dispute resolution proceedings. The Court therefore considered that the judgment had become final and irrevocable upon its publication.

3. **Recognition.** The starting point for a critical analysis is the fact that Greece does not officially recognise Kosovo's independence. This position continues to be reflected in the policy of the Greek Ministry of Foreign Affairs, which maintains a reservation regarding Kosovo's status and supports dialogue between Belgrade and Pristina. Such non-recognition primarily concerns Kosovo's international legal and political status as an independent state. It does not, however, necessarily entail that every legal relationship, administrative act or judicial decision connected with that territory must be deprived of legal effect within the Greek legal order. Recognition of a state is a matter of public international law and foreign policy, whereas recognition of a foreign judicial decision is an institution of private international law and international civil procedure. Although the two issues may be factually connected, they are not legally identical.

More specifically, recognition of a state concerns acceptance of its international legal personality and its capacity to participate in international relations as a state. By contrast, recognition of a judicial decision concerns acceptance, within a different legal order, of the specific legal effects of an adjudication, subject to the requirements imposed by the law of the recognising state. Accordingly, accepting the dissolution of a marriage ordered by a Kosovo court does not, in itself, amount to recognition by Greece of Kosovo's statehood. The Greek court is not called upon to determine the question of Kosovo's independence, but rather to decide whether a particular judgment may produce legal effects in Greece.

4. **Autonomous Nature of the Recognition of Foreign Judgments.** This distinction is essential to understanding the decision. Recognition of a foreign decision does not necessarily constitute an act of political or diplomatic recognition; rather, it is a judicial determination as to whether the effects of that decision may be incorporated into the domestic legal order. In the present case, the subject matter of the application was neither recognition of Kosovo as a state nor general acceptance of its judicial system for every conceivable legal purpose. It was the recognition of a specific judgment dissolving the applicant's marriage. This approach serves legal certainty and the protection of the personal status of natural persons. If Kosovo's non-recognition automatically resulted in the refusal

to recognise every judicial act issued there, a situation could arise in which a marriage was regarded as dissolved in Kosovo but continued to be regarded as subsisting in Greece. Such a discrepancy could give rise to serious practical difficulties concerning remarriage, civil status and civil registration.

Furthermore, international cooperation practice itself acknowledges the need to process documents and acts originating in Kosovo, including in states that do not recognise its independence. By way of example, UNMIK provides document-certification services for use in United Nations Member States that do not recognise Kosovo, including documents relating to personal and family status. This practice does not, in itself, establish that every judicial decision originating in Kosovo is recognisable in Greece. It does, however, demonstrate that non-recognition of Kosovo's statehood does not necessarily preclude all institutional cooperation or acceptance of documents originating from the territory.

5. **The Significance of the Distinction for the Decision.** In this respect, the reasoning of the Thessaloniki Court is, in principle, persuasive. The Court did not proceed on the basis that Greece recognises Kosovo as an independent state. Instead, it treated the divorce judgment as a foreign judicial act whose legal effect had to be assessed independently. This approach avoids conflating a matter of international politics with an issue of private international law. At the same time, it does not mean that recognition of statehood is legally irrelevant in every circumstance. Non-recognition may give rise to specific difficulties concerning proof of the authenticity of documents, certification of the court's jurisdiction, and verification of the judgment's finality. These matters, however, must be examined on a case-specific basis rather than treated as grounds for automatically dismissing the application.
6. **The International Jurisdiction of the Kosovo Court.** The Greek Court considered a certificate issued by UNMIK and authenticated by the Greek consular office in Pristina, certifying the competence of the court that delivered the judgment. This evidence is particularly significant because Greece's non-recognition of Kosovo gives rise to practical difficulties in authenticating documents originating from its judicial authorities. Recourse to the UNMIK certification mechanism enables relevant matters to be verified without requiring prior diplomatic recognition of Kosovo.

This practice is consistent with UNMIK's institutional role in certifying documents for use in states that do not recognise Kosovo's independence. Nevertheless, a distinction must be drawn between authentication of a document and proof of the international jurisdiction of the court that issued it. The former concerns the document's authenticity and provenance, whereas the latter concerns the legal authority of the court to adjudicate the particular case.

7. **Public Policy.** Under Article 780 CCP, recognition must not be contrary to Greek public policy or good morals. In this context, public policy operates as a safeguard for the fundamental principles of the Greek legal order, rather than as a means of generally rejecting every foreign rule or institution that differs from Greek law. The Thessaloniki Court held that the dissolution of the marriage did not offend public policy because divorce by mutual consent is also recognised in Greece pursuant to Article 1441 CC. This conclusion is, in principle, correct. Greek public policy does not require refusal of recognition merely because a judgment was delivered by a court of a state that Greece does not recognise. The decisive consideration is whether the effects of the particular judgment are incompatible with the fundamental principles of the Greek legal order.
8. **Conclusion**

The decision highlights the importance of distinguishing between recognition of a state as a subject of international law, and recognition of the legal effects of a judicial decision delivered within its territory.

Greece's non-recognition of Kosovo does not, in itself, constitute sufficient grounds for excluding recognition of a divorce judgment delivered by a court in that territory. The issue must be determined independently, in accordance with the applicable rules of Greek private international law and international civil procedure.

Accordingly, the decision may be assessed positively insofar as it distinguishes between recognition of a state and recognition of a judicial decision, without implying that every aspect of its reasoning is equally persuasive. Its principal contribution lies in treating the recognition of a foreign decision as an autonomous legal issue, to be determined by reference to specific procedural safeguards and applicable legal requirements, rather than exclusively on the basis of Greece's diplomatic position towards the territory in which the decision was

delivered.

The Philippines: Recognition of Foreign Divorces and Recent Amendments to the Rules of Court



This post is kindly prepared by Akifumi MOCHIZUKI, attorney at law at Atsumi Toshiyuki Law Office and a member of Private International Law Association of Japan

1. The Absence of Divorce under Philippine Law and the Recognition of Foreign Divorces in the Philippines

Philippine law provides for the declaration of nullity and the annulment of marriage, but generally it does not provide for divorce (except for Muslims, Code of Muslim Personal Laws□P.D. 1083). Accordingly, a divorce cannot be obtained under Philippine law, whether between two Filipino nationals or in a case in

which Philippine law governs the divorce.

Where a Filipino national and a foreign national divorce abroad, the Filipino spouse must petition a Philippine court for judicial recognition of the foreign divorce. Once the judgment granting recognition becomes final, the Filipino spouse acquires the legal capacity to remarry under Philippine law (Family Code of the Philippines, Art. 26(2)).

It was once argued that Art. 26(2) applies only where the foreign spouse was the petitioner in the divorce proceedings. The Supreme Court of the Philippines has since held that this is not required, so any foreign divorce suffices (*Republic v. Manalo*, G.R No. 2210129, April 24,2018). By contrast, a divorce obtained abroad by two Filipino nationals will not be recognized (*Republic v. Orbecido III*, G.R. No. 154380, May 10, 2005, *Garcia v. Recio*, G.R No. 128222, October 2, 2001(obiter dictum)). A divorce that is effected solely by agreement of the parties, without any decision by a court or public authority, such as a Japanese divorce by agreement (*kyōgi rikon*), is also eligible for recognition, as the Supreme Court held in *Racho v. Tanaka*, G.R. No. 199515, June 25, 2018.

2. Problems with the Previous Recognition Procedure in Cases Involving Japan

Filipinos, many of whom are women, who married Japanese nationals in Japan and subsequently divorced there have not always sought judicial recognition of their foreign divorces in the Philippines. The principal reasons include the high cost of legal representation and the length of the proceedings.

Under the previous procedure, counsel for the petitioner had to establish two matters before the Philippine court: (a) the fact of the foreign divorce and (b) its legal effect under the applicable foreign law, namely, that the divorce had the effect of conferring the legal capacity to remarry. Unlike in Japan, where the content of foreign law is generally ascertained by the court, Philippine proceedings require the party relying on foreign law to plead and prove its content.

As regards proof of the legal effect of a Japanese divorce, Japan’s Ministry of Justice provides English translations of Japanese legislation, including the Civil

Code, through its Japanese Law Translation database. However, because these translations are not officially certified translations, they have often been regarded as insufficient evidence, and expert opinions may be required. Even after the above-mentioned decision in *Racho v. Tanaka*, the author has encountered numerous cases in which petitions for recognition were denied for lack of sufficient evidence (*Republic v. Ng*, G.R. No. 249238, February 27, 2024).

Moreover, judicial recognition in the Philippines is not a prerequisite for remarriage in Japan. Suppose that a Japanese national habitually resident in Japan marries a Filipino national and that the couple subsequently divorce in Japan. Under the proviso to Article 27 of the Act on General Rules for Application of Laws (Act No. 78 of 2006), Japanese law governs the substantive requirements for divorce. As regards the form of the divorce, Article 34(1) and (2) of the same Act apply (the governing law is the law of Japan).

Where a divorce by agreement has been validly effected under Japanese law, the Filipino spouse may remarry **in Japan**, provided that the divorce and the resulting termination of the marriage are duly established for the purposes of Japanese law. The spouse need not obtain a certificate of legal capacity to contract marriage or a certificate of single status from the Philippine authorities.

Consequently, a Filipino national who has divorced in Japan may find himself or herself in a “limping” marital status: free to remarry in Japan but still regarded as married in the Philippines (“mariage boiteux”).

3. Amendment of the Philippine Rules of Court

On October 7, 2026, the Supreme Court of the Philippines approved amendments to the Rules of Court intended to ease the evidentiary burden involved in obtaining judicial recognition of foreign divorces. The amendments were announced in the Court’s press briefer dated October 8, 2026.

Under the amended rules, a petitioner seeking recognition of a foreign divorce under Article 26(2) of the Family Code must establish the fact of the foreign divorce. The rules introduce a disputable presumption that the divorce has the effect of conferring the legal capacity to remarry under the applicable foreign law, unless the divorce document indicates that the divorce has only limited

effect. The party challenging recognition may rebut this presumption by proving that the divorce does not have the effect of permitting remarriage.

The amendments also introduce a presumption concerning the accuracy of an English translation of a foreign divorce document where the translator certifies its accuracy under oath, subject to rebuttal by contrary evidence.

By reducing the evidentiary burden on petitioners, the amendments represent a significant procedural development. They should facilitate access to judicial recognition of foreign divorces in the Philippines, particularly for Filipinos who have divorced abroad and face practical difficulties in proving foreign law.

For further details, see the Supreme Court of the Philippines' press briefer dated October 8, 2026.

Mozambican Supreme Court Recognises an Indian Adoption: A Teleological Approach to the Recognition of Foreign Acts



I. Introduction

Can a foreign adoption deed be given effect in Mozambique? What procedural steps must be followed, and which requirements must be satisfied? Does the fact that the adoption takes the form of a notarial deed complicate its "recognition" in Mozambique under the applicable legal framework for the "review and confirmation of foreign judgments"? These are some of the questions addressed by the Mozambican Supreme Court in a recent decision concerning the recognition of an Indian adoption in Mozambique. The case is particularly interesting and offers valuable insights from a comparative law perspective, thus warranting closer examination.

II. The Facts

The case concerns the review and confirmation in Mozambique of an Indian public deed of adoption executed by X, a Hindu Indian woman residing in Mozambique, and approved by the competent authorities in India, in respect of A, a Hindu Indian minor girl. X sought recognition of the Indian adoption to enable her husband, an American citizen also sharing residence with X, to proceed with a separate adoption of A in Mozambique, as the court hearing his application had required the prior recognition of the Indian adoption through the ordinary procedure provided for under Mozambican law. X therefore applied to the

Supreme Court for review and confirmation of the Indian adoption deed so that it could produce legal effects in Mozambique.

III. The Ruling (brief summary)

Having found that the relevant formalities had been complied with, the Court, in its ruling of 29 April 2026, recognised the Indian adoption. It first addressed whether a foreign public deed of adoption could qualify for recognition under Mozambican law. Although such a deed is not formally a judicial decision, the Court interpreted the concept of "decision" in Article 1094 of the Code of Civil Procedure (CPC) substantively, holding that a registered Indian adoption deed could qualify because of its legal effects, including the establishment of an irrevocable parent–child relationship.

The Court then examined whether the adoption satisfied the requirements for recognition under Article 1096 CPC, namely: (a) the absence of doubt as to the authenticity of the instrument and its proper interpretation; (b) its finality under Indian law; (c) the absence of fraud on the law in establishing the jurisdiction of the foreign authority; (d) the absence of conflicting pending or concluded proceedings in Mozambique, subject to the applicable rules on priority; (e) observance of procedural safeguards, including proper service, the right to be heard and equality of the parties; (f) compatibility with Mozambican international public policy; and (g) compliance with the applicable nationality privilege.

Examining each requirement in turn and addressing the legal issues arising in the context of the Indian adoption, the Court concluded that all the conditions for recognition had been satisfied. It therefore granted the application, allowing the Indian adoption deed to produce legal effects in Mozambique.

IV. Comments

1. General Remarks on the Court's Approach

The case commented on here is, in many respects, particularly interesting and

offers several useful insights. The Supreme Court's discussion of the recognition requirements is detailed and well-reasoned. Indeed, as is common in the Court's practice, it begins its analysis of each issue by setting out the relevant theoretical considerations and the general position under Mozambican law before turning to the specific circumstances of the case. This approach helps explain why the judgment is comparatively lengthy. The decision also illustrates the Court's receptiveness to Portuguese legal scholarship and case law, which it draws on in addressing certain issues. As the Court explains, "Portugal has a closely related legal system and is frequently used as a doctrinal and comparative reference in Mozambique".

It is also noteworthy that the Court explicitly acknowledged the importance of a "systematic and teleological interpretation", observing that the wording of the law does not preclude such an interpretation. This is significant insofar as it allows the Court to emphasise the practical effectiveness of the recognition mechanism, its conformity with the principles of legal certainty and the protection of legitimate expectations and, more importantly, the best interests of the child, particularly where the establishment of family ties is at issue.

Against this background, two issues – among many others – deserve particular attention for the purpose of a concise blog comment. The first concerns the procedural complications arising from the absence of automatic recognition in Mozambican law. The second, and in my view the main contribution of the decision, concerns the extension of Mozambique's regime for the recognition and enforcement of foreign decisions to foreign public notarial deeds and the potential implications of the Court's reasoning for other non-judicial acts. The case also raises broader questions about the role of the HCCH conventions in facilitating the cross-border circulation of documents and addressing the challenges associated with intercountry adoption.

2. The Procedural Complications Arising from the Absence of Automatic Recognition

The first issue is the unnecessary complication of the recognition procedure resulting from the absence of the principle of automatic recognition in Mozambican law (for an overview, see my previous comments on this blog here).

As the factual background shows, X's application for recognition of the Indian adoption became necessary when her husband sought to adopt A himself. However, for his application to proceed, the Indian adoption first had to be formally recognised in Mozambique. Under Mozambican law, foreign judgments cannot produce legal effects until they have been reviewed and confirmed by the Supreme Court through the applicable recognition and enforcement procedure (for an overview, see see my previous comments here). Consequently, the proceedings concerning the husband's adoption application were stayed, and the parties were required to obtain recognition of the Indian adoption first.

While these procedural steps follow from the existing framework, which does not provide for automatic recognition, this case clearly illustrates the need to consider introducing such a principle into Mozambican law. Had automatic recognition been available, the judge hearing the husband's adoption application could have examined, as an incidental matter, whether the Indian adoption satisfied the requirements for recognition under Mozambican law and, if so, proceeded with the application without requiring the parties to initiate separate proceedings before the Supreme Court. This would have avoided an unnecessary procedural detour and facilitated the effective resolution of the adoption application.

3. The Recognition of Foreign Public Notarial Deeds: A Potential Extension to Non-Judicial Acts

The second issue, which in my view constitutes the main contribution of the decision, concerns the extension of Mozambique's regime for the recognition and enforcement of foreign decisions to foreign public notarial deeds, and the position adopted by the Court in this regard.

It is noteworthy that the Court approached this question as a preliminary issue, examining whether the foreign adoption deed was eligible for recognition and enforcement under the applicable legal framework. The Court acknowledged that the term "decision" generally refers to judicial decisions concerning private rights rendered by a foreign court. It nevertheless considered that the wording of the law did not preclude a systematic and teleological interpretation encompassing other instruments which, although not "decisions" in the strict legal sense,

produce equivalent legal effects. In particular, the Court focused on whether such instruments definitively determine subjective legal positions in civil or commercial matters and possess a settled and enduring effect.

Applying this reasoning to the Indian adoption, the Court acknowledged that the adoption deed was not a judicial decision as such but considered that it shared its essential characteristics, notably the stability of the legal status it established between parent and child. The Court also addressed the concern that such an interpretation might unduly broaden the scope of the applicable legal framework. Its answer was straightforward: the interpretation did not extend the regime to instruments that were merely contractual or administrative in nature and lacked a settled effect or the capacity to determine personal status definitively. On the basis of this teleological and functional interpretation, the Court concluded that the Indian adoption deed was eligible for review and confirmation under the applicable legal framework, subject to the adjustments required by the specific nature of an adoption instrument that is not a judicial decision *per se*.

The Court's approach is significant because it opens the door to the recognition of other foreign non-judicial acts, notably non-judicial divorces available in several European countries (on this issue, see my previous post here on this blog). The key question in such cases would be whether the foreign act shares with a judicial decision the relevant characteristics identified by the Court, particularly the definitive determination of a legal status and the stability of the legal effects produced. If these elements are present, the Court's reasoning could provide a basis for considering such acts eligible for recognition under Mozambique's existing legal framework.

4. Authentication, Intercountry Adoption and the Relevance of the HCCH Conventions

The case raises two distinct questions concerning the relevance of the HCCH conventions: the authentication of foreign public documents (the 1961 HCCH Apostille Convention) and the international context of intercountry adoption (the HCCH 1993 Adoption Convention). The first relates directly to the Court's reasoning, while the second offers a broader perspective on the cross-border movement of adopted children.

a) Authentication Requirements and the 1961 Apostille Convention

One of the issues raised in the case concerns compliance with the requirements of authenticity and intelligibility under Article 1096(a) CPC. The factual background provides useful insights into this issue. After X applied for recognition of the Indian adoption, she was invited to submit an authenticated and legalised copy of the adoption deed, together with any relevant explanations she considered necessary. In response, X submitted a legal opinion explaining that the adoption complied with Indian law, particularly the Hindu Adoptions and Maintenance Act (HAMA) of 1956, and filed the notarial instrument of adoption together with its translation.

The Deputy Attorney General, however, considered that X needed to take the necessary steps to obtain the signature of a Mozambican consular or diplomatic officer in India to ensure that the legalisation of the adoption deed complied with the formalities required under Mozambican law (Article 540 CPC). In addressing this issue, the Court first referred to Portuguese legal opinions according to which legalisation is no longer required, except where doubts arise as to the authenticity of the foreign document itself or that of its authentication. The Court then observed that the documents had been issued by the Indian authorities, bore the Indian government emblem and appropriate seals, and contained the signatures and fingerprints of the parties, as well as the signatures of the relevant Indian officials. It therefore found no reason to doubt the authenticity of the adoption instrument.

Accordingly, the Court held that, in the circumstances, it was unnecessary to legalise the document by obtaining, through the Mozambican Consulate in India, authentication of the signature of the official of the Registry Office who had approved the public deed of adoption. Such a step would otherwise have been required under a strict application of Article 540 CPC.

One cannot help wondering whether these doubts and procedural complications could have been avoided had Mozambique been a Contracting State to the 1961 Apostille Convention (on the need for African countries to join the Apostille Convention, with reference to Mozambican case law, see my previous comment on this blog here). Since India is also a Contracting State since 2004, an apostille

could, where the Convention applies, have facilitated the circulation of the relevant document between the two countries. The Court could then have verified the presence and validity of the apostille rather than having to examine the need for additional consular or diplomatic authentication.

b) The 1993 Adoption Convention and the Cross-Border Movement of Adopted Children

The case also invites reflection on the 1993 HCCH Adoption Convention, to which India is a Contracting State since 2003. Discussions of intercountry adoption often focus on children moving from countries in the Global South, as "States of origin" to adoptive parents in the Global North as "receiving States". The present case illustrates a different configuration: an Indian mother residing in Mozambique adopted a child in India, and the child was subsequently brought to live with her in Mozambique. It thus highlights the potential relevance of the Convention beyond the more familiar North–South context, particularly in facilitating cooperation between countries of the Global South. Had Mozambique also been a Contracting State, the Convention could potentially have provided a framework for cooperation between the two countries, subject to its conditions of application. This case therefore serves as a reminder that the HCCH conventions can contribute not only to cooperation between countries of the Global North and South, but also to strengthening legal cooperation among countries of the Global South. The 1993 Adoption Convention has already attracted significant participation in Africa, with 24 African States having joined it. This makes it one of the most widely adopted HCCH conventions on the continent.

Egyptian Supreme Court Enforces Italian Judgment: The Right

Outcome despite Some Reservations



I. Introduction

The enforcement of foreign judgments depends on the legal regime applicable to the case. In common law jurisdictions, enforcement may proceed, depending on the circumstances, either by registration under a statutory regime (whether based on reciprocal arrangements or international conventions) or by an action on the foreign judgment at common law. In civil law jurisdictions, enforcement generally requires exequatur proceedings, which may be governed by domestic law or, where applicable, by an international convention. Where an international convention applies, its provisions should, in principle, govern the enforcement process, unless the convention itself provides otherwise or leaves a particular matter to be governed by domestic law.

Although this outline may appear self-evident, judicial practice in many countries, particularly in the MENA region, suggests otherwise. Even where an applicable international convention exists, courts may either disregard it altogether or begin their analysis under domestic law, referring to the convention only as a subsidiary or residual basis. This state of affairs is illustrated by a recent decision of the Egyptian Court of Cassation concerning the enforcement in Egypt of an Italian

judgment. Given the significance of this decision, it warrants closer examination, particularly with regard to the relationship between the applicable international convention and the domestic rules governing the recognition and enforcement of foreign judgments.

II. The Facts

The case concerns an application for the recognition and enforcement of an Italian judgment brought by X (appellant and original claimant, an individual employee) against Y (appellee and original defendant, an Egyptian press institution based in Cairo).

The decision provides limited factual background. It indicates that X sought recognition and enforcement in Egypt of an Italian labour judgment recognising an employment relationship between the parties and ordering Y to pay X salary arrears, together with an inflation adjustment calculated according to the Italian National Institute of Statistics and statutory interest. The Egyptian Court of First Instance granted enforcement, but the Court of Appeal overturned that decision and dismissed the application. The Court of Appeal considered that Y had no place of residence (*maḥal ʾiqāmah*—محل إقامة) in Italy when the proceedings were commenced. It also considered that the Italian judgment addressed X's work as a journalist-correspondent without examining the nature of Y's office (*maqarr*—مقر) in Italy or the applicability of the conditions laid down in the bilateral treaty between Egypt and Italy on the recognition of judicial decisions.

X subsequently appealed to the Court of Cassation, arguing that the Italian judgment satisfied the requirements for the enforcement of foreign judgments under Articles 296–298 of the Egyptian Code of Civil and Commercial Procedure (Law No. 13 of 1968 – hereafter CCCP). In particular, X argued that: (1) the Italian court had jurisdiction because the employment relationship was performed entirely in Italy in accordance with the employment contract; (2) Y had been duly served and had participated in the Italian proceedings by submitting a defence memorandum and presenting its claims; (3) the Italian judgment had become final and res judicata, as evidenced by official certificates issued by the Italian judicial authorities and duly authenticated; and (4) the judgment did not violate Egyptian public policy or public morals. X also challenged the Court of Appeal's finding that

Y had no office (*maqarr*—مقر) in Italy when the proceedings were commenced. He maintained that Y had a known office (*maqarr*—مقر) in Rome, used for collecting news and distributing the newspaper, and that official documents submitted to the lower courts established that Y had been duly served at that address.

> *(□) It should be noted that maqarr (مقر) in Arabic means "domicile". However, I believe that the reference here is to Y's office in Italy, rather than to its "domicile" in the technical sense.*

III. The Ruling

In its ruling of *11 February 2026*, the Court of Cassation upheld X's arguments and quashed the appealed decision. In doing so, the Court reasoned as follows.

The Court began, as it usually does, by setting out the general legal framework.

First, it recalled that, according to its established case law, where treaties govern the recognition and enforcement of foreign judgments between Egypt and another State, their provisions must be applied (Article 301 of the CCCP). It further noted that, under Article 298(1) of the CCCP, the foreign court that rendered the judgment must have had jurisdiction. This requirement concerns the foreign court's international jurisdiction, rather than its jurisdiction under the domestic rules of the State of origin, whether relating to subject matter or territorial jurisdiction. The Court then explained that, when assessing the foreign court's indirect jurisdiction under Article 298(1), it must be determined whether Egyptian courts lack jurisdiction over the dispute in respect of which the foreign judgment was rendered. In the Court's view, this requirement concerns whether Egyptian courts have exclusive jurisdiction over the dispute. Where their jurisdiction is merely concurrent with that of the foreign court, this does not preclude enforcement, provided that the foreign judgment does not conflict with a judgment or order previously rendered by the Egyptian courts.

The Court next addressed the principle of reciprocity under Article 296 of the CCCP, according to which foreign judgments may be enforced in Egypt on the basis of reciprocity with the State of origin. It explained that the reciprocity required by the legislature is legislative, rather than diplomatic, reciprocity

established through a treaty. Egyptian courts must therefore examine, of their own motion (*sua sponte*), whether legislative reciprocity exists.

The Court then referred to the bilateral convention between Egypt and Italy on the recognition and enforcement of judgments in civil, commercial and personal status matters. It noted that, under the Convention, the courts of the State in which enforcement is sought must, when examining the jurisdictional basis of the judgment, be bound by the findings of fact contained in it, unless the judgment was rendered in default. The Court also referred to Article 4(3) of the Convention, under which the court of the State of origin is considered to have jurisdiction where the contractual obligation forming the subject matter of the dispute was performed, and was due to be performed, in that State pursuant to an express or implied agreement between the claimant and the defendant.

Having clarified the applicable legal framework, the Court proceeded to apply it to the case at hand.

It found that the Italian court had jurisdiction, that its judgment had acquired the force of res judicata, that it did not violate Egyptian public policy or public morals, that it did not conflict with any judgment or order previously rendered by the Egyptian courts, and that the respondent institution had been duly represented in the proceedings. Accordingly, the Court concluded that the Italian judgment satisfied the conditions for enforcement in Egypt under the bilateral Convention, as required by Article 296 of the CCCP.

IV. Comments

While one can agree with the outcome of the decision, parts of the Court's reasoning raise questions, if not doubts. This concerns, in particular, the detour through domestic law, notably Articles 296 and 298 of the CCCP, which set out the requirements for the enforcement of foreign judgments in Egypt.

In my view, the Court correctly began by citing Article 301 of the CCCP, which provides that where treaties govern the recognition and enforcement of foreign judgments between Egypt and another State, their provisions must be applied. From that point, the Court should have taken note of the bilateral Convention between Egypt and Italy and examined the enforceability of the Italian judgment

by applying the provisions of that Convention. Accordingly, the references to the rules of domestic law governing the indirect jurisdiction of the foreign court under Article 298(1) and the principle of reciprocity under Article 296 appear unnecessary.

It should be noted, however, that the Court of Cassation's established practice frequently follows the same approach as in the present case: it refers to provisions of domestic law, either exclusively or in combination with the applicable international convention, in a manner that is, at the very least, difficult to reconcile with Article 301 of the CCCP.

That said, a few further comments deserve to be made.

First, in examining the question of indirect jurisdiction, the Court essentially reiterated its established position on this matter. The case therefore provides yet another example of how, under Article 298(1) of the CCCP, the indirect jurisdiction of the foreign court is subject to a twofold test or a double control:

1. First, the jurisdiction of the foreign court must be examined in light of its own rules of international jurisdiction. In this respect, Egyptian courts should not investigate whether the foreign court that rendered the judgment had jurisdiction under its own domestic rules governing subject-matter and territorial jurisdiction.
2. Second, Egyptian courts must consider whether the dispute falls within their own jurisdiction. It is well established that this inquiry concerns only whether Egyptian courts have exclusive jurisdiction over the dispute, and does not extend to cases in which their jurisdiction is merely concurrent with that of the foreign court.

In this respect, it is worth noting that, with a few exceptions, Egyptian law does not clearly specify the circumstances in which Egyptian courts have exclusive jurisdiction. This question is particularly relevant in employment disputes, in which a new law has recently been adopted that appears to give certain labour law provisions a mandatory character, raising the question of whether they should be treated as *lois de police* (overriding mandatory rules). The present case, however, suggests that even the mandatory nature of such provisions does not, in itself, confer exclusive jurisdiction on Egyptian courts.

It is also noteworthy that, although the case concerned an employment contract,

the Court treated it as an ordinary contractual dispute and applied the general rules governing contractual obligations. This approach contrasts with the broader development in comparative law, which has increasingly recognised the need for special protective rules to safeguard employees as the weaker party to the employment relationship. From a private international law perspective, Egyptian law still lacks such protective rules, both in relation to international jurisdiction and in the field of choice of law.

The second question concerns reciprocity. The Court recalled its general position on this issue, notably by explaining that the reciprocity required under Article 296 is legislative, rather than diplomatic, reciprocity, in the sense that it does not require the existence of a treaty between the State of origin and Egypt. Recent decisions, as reported on this blog (here and here), however, show that, despite reaffirming this well-established distinction, the Court has concluded that reciprocity was lacking after noting the absence of an applicable treaty. The Court's position in the present case is somewhat nuanced. Although it confirmed the long-established distinction between legislative and diplomatic reciprocity, it immediately referred to the bilateral Convention between Egypt and Italy, before concluding that the Italian judgment satisfied the conditions for enforcement in Egypt under that Convention, as required by Article 296 of the CCCP. This reference to Article 296 is problematic, as that provision concerns reciprocity, whereas the application of international conventions is addressed by Article 301. It is unclear whether the Court's reference was a mistake. In any event, it would have been more appropriate to rely on Article 301 as requiring the application of the Egyptian–Italian Convention in preference to domestic law.

(□) Previous Posts on Egyptian PIL:

- Zamzam on Egyptian Private International Law (in Arabic): Towards Reviving the Golden Age of Egyptian Private International Law
- Refusal to Enforce in Egypt of a Californian (U.S.) Judgment for Lack of Reciprocity: What Has Gotten into the Egyptian Supreme Court?
- Reciprocity and the Enforcement of Foreign Judgments in Egypt – A Critical Assessment of a Recent Supreme Court Decision
- Enforcing Foreign Judgments in Egypt: A Critical Examination of Two Recent Egyptian Supreme Court Cases

- Egyptian Supreme Court on the Enforcement of Foreign Judgments – Special Focus on the Service Requirement
- Egyptian Court of Cassation on the application of the Hague Service Convention

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Talaq Divorce Cases in the United States

Over the past several months, three state appellate courts in the United States have examined whether a "talaq" divorce obtained in another country is entitled to recognition as a matter of comity. In this post, I first survey the rules relating to the recognition of foreign divorce judgments in the United States. I then explain the concept of a talaq divorce. Finally, I discuss the cases.

Foreign Divorce Judgments

U.S. courts are often asked to recognize divorce judgments rendered by courts in other countries. While the rules relating to foreign *money* judgments are set forth in the Uniform Foreign-Country Money Judgments Recognition Act, there is no uniform act that addresses when a U.S. court must recognize a foreign *divorce* judgment.

In the absence of statutory guidance, U.S. courts apply common law principles of comity to determine whether a foreign divorce judgment should be given effect. These principles were famously expounded by the U.S. Supreme Court in *Hilton v. Guyot* (1895), where the Court held that a foreign judgment should be recognized when:

> *there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the defendant, and under a system of jurisprudence likely to secure an impartial administration of justice between the*

> *citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court, or in the system of laws under which it is sitting, or fraud in procuring the judgment.*

The *Hilton* Court also observed that a foreign judgment need not be recognized when contrary to the public policy of the enforcing state:

> *A judgment affecting the status of persons, such as a decree confirming or dissolving a marriage, is recognized as valid in every country unless contrary to the policy of its own law (emphasis added).*

With these principles in mind, let us now turn to the type of divorce here at issue—a talaq divorce.

Talaq

Talaq is an Islamic form of divorce. It has been described by one U.S. court as follows:

> *Under Islamic law, a husband has the right to initiate a divorce ("talaq") against his wife. All that is required to achieve talaq is for a husband to pronounce his intent to divorce his wife on three separate occasions, either verbally or in writing. The husband does not need to communicate his three pronouncements to his wife. She need not be present for them or even aware of them. A wife cannot object to a talaq.*

In 2008, the Maryland Supreme Court was asked to recognize a talaq divorce in *Aleem v. Aleem*. In that case, the husband—a Muslim and a national of Pakistan—went to the Pakistan Embassy in Washington, D.C., and executed a written document stating three times that he was divorcing his wife. He argued that this act was sufficient to effectuate a divorce under the law of Pakistan even though he and his wife were residents of Maryland.

The Maryland Supreme Court held that, even if the talaq divorce was valid as a matter of Pakistani law, it was not entitled to recognition in Maryland because (1) it provided no due process protection for the wife; (2) only the husband (not the wife) had a right to invoke this process; and (3) the wife was not entitled to an

equitable share of the marital property. On these facts, the Maryland Supreme Court held that recognizing such a divorce would be contrary to Maryland public policy.

The *Aleem* decision has cast a long shadow. It is cited by each of the more recent cases, to which we now turn.

Adewale v. Adewale

On June 22, 2026, the Pennsylvania Superior Court discussed a talaq divorce in *Adewale v. Adewale*. In that case, a man and woman were civilly married in Lagos, Nigeria, in 2011, and subsequently moved to the United States. In 2020, the man filed for divorce in Pennsylvania. After the woman sought alimony, the court ordered the man to pay her a set sum of money each month.

In the course of the divorce proceedings, the man became aware that his putative wife may have been married to another person at the time of their "marriage." Over the course of several years of evidentiary hearings, he discovered that she had, in fact, married someone else in 2001. The woman's legal husband testified that the 2001 marriage had occurred and submitted a wedding certificate and photographs as proof. In light of this evidence, the trial court concluded that the parties' marriage was void *ab initio* and terminated the man's alimony obligations.

On appeal, the woman argued, among other things, that her 2001 marriage had been terminated by a talaq divorce in 2006, thereby paving the way for the court to conclude that the 2011 marriage was valid. The Pennsylvania Superior Court rejected this argument. Even if her husband had, in fact, repeated "I divorce you" three times in front of witnesses in 2006, the court held, this act was of no legal consequence because talaq could "only be valid if uttered by a Muslim husband." Since the husband had converted to Christianity in 1980, the court reasoned, he did not identify as Muslim and could not divorce his wife in this manner. The court also observed (citing *Aleem*) that other "U.S. states have declined to recognize talaq as a valid unilateral method of divorce on the grounds that it violates the right to due process, equal protection, and fundamental fairness." It ultimately affirmed the trial court's judgment and held that the parties' 2011 marriage was void from the beginning.

Ali v. Osman

On August 6, 2026, the North Dakota Supreme Court addressed the issue of talaq in its opinion in *Ali v. Osman*. The couple in that case were married in Sudan in 2001 and moved to the United States soon afterwards. In 2024, the wife filed for divorce in North Dakota. The husband moved to dismiss the action for lack of subject-matter jurisdiction on the grounds that he had, unbeknownst to his wife, obtained a talaq divorce when he was traveling in Sudan in 2022, as evidenced by an official certificate.

The question presented was whether this divorce was entitled to recognition in North Dakota. The trial court held that it was not. It noted that neither the husband nor the wife was a resident of Sudan when the husband obtained the talaq divorce. It pointed out that the wife was given no notice that the husband was seeking a talaq divorce and did not learn of it until after it had occurred. It concluded that these proceedings had failed to provide the most "basic rudiments" of due process to the wife.

This decision was affirmed by the North Dakota Supreme Court, which observed (citing *Aleem*) that a number of other U.S. courts had declined to recognize talaq divorces in similar situations. It held that the trial court had not "abused its discretion by declining to recognize the Sudanese divorce certificate as a matter of comity."

Azhar v. Choudhri

On September 25, 2026, the Texas Supreme Court declined to recognize a talaq divorce in *Azhar v. Choudhri*. In this case, the husband had lived in Houston, Texas, since he was a child. In 2008, he traveled to Pakistan and married a Pakistani woman. The wife moved to Houston to join her husband in 2010. In 2012, the husband sent his wife back to Pakistan under the guise of renewing her visa. He subsequently obtained a talaq divorce against her, in Pakistan, in 2013, without her knowledge:

> *According to Wife, Husband did not inform Wife before or afterwards that they would be divorced. No one notified Wife of the proceedings or served her with process. Instead, Husband purported to effectuate service by publishing a notice in a small local Pakistani newspaper a mere five days in advance. Wife*

did not happen to come across that publication.

The wife did not learn of the talaq divorce until 2015.

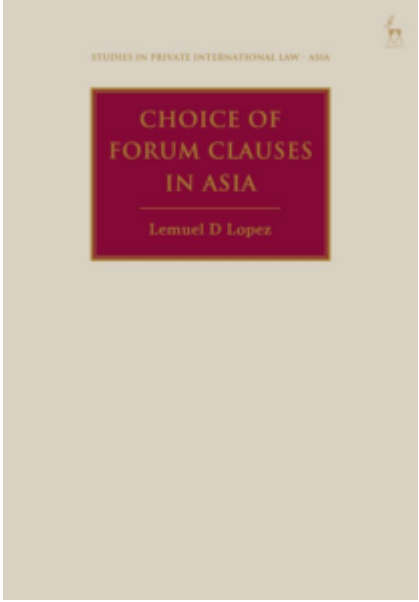
In that year, the wife filed for divorce in Texas, seeking an equitable division of the substantial marital estate. The husband moved to dismiss on the grounds that the couple was already divorced under Pakistani law and that, accordingly, there was no marriage to dissolve. The trial court held that the Pakistani talaq divorce judgment was entitled to recognition and rendered a take-nothing judgment against the wife. This decision was affirmed by the Court of Appeals of Texas.

The Texas Supreme Court reversed. It concluded that the talaq divorce was not entitled to recognition because the wife was never provided with notice "reasonably calculated to apprise her of the action." The notice provided was, in the court's view, so far short of what Texas law required that the divorce judgment was not entitled to recognition. Although the court acknowledged that the husband had published a notice in a Pakistani newspaper five days before he initiated the talaq divorce, it viewed this as insufficient:

> *[W]e have cautioned that citation by publication or posting violates due process when the address of a known defendant is readily ascertainable . . . This record forecloses the conclusion that Husband really wanted to find Wife and notify her of the divorce proceeding. Husband put on no evidence that the typical channels of spousal communication—telephone, text messages, email, social media messaging, in-person communication, mutual friends, and so on—were unavailable. Under these circumstances, the trial court should have heeded the default rule that when a defendant's identity is known, service by publication is generally inadequate.*

In light of these issues with respect to notice, the Texas Supreme Court unanimously reversed and remanded the case.

Book Review: Choice of Forum Clauses in Asia (Lemuel L Lopez)



Choice of forum clauses are an important means of managing litigation risk in international commercial contracts. Their effectiveness, however, depends on how courts understand and enforce the parties' agreement. This well-researched book offers a substantial comparative examination of that problem across seven Asian jurisdictions: Singapore, Hong Kong, Malaysia, the Philippines, China, Indonesia and Japan. Presented as the first work devoted to this particular comparative inquiry, it makes a valuable contribution to Asian private international law and offers insights that will interest readers working on choice of forum agreements elsewhere.

The selection of jurisdictions gives the study considerable comparative breadth. Singapore, Hong Kong and Malaysia represent common law systems strongly influenced by English law. The Philippines provides a mixed legal tradition shaped by American and Spanish influences, while China, Indonesia and Japan represent civil law traditions, with Dutch law having exerted a particularly significant influence on Indonesia. By bringing these systems together, the author examines how shared problems are addressed through different legal concepts and procedural arrangements.

The book's analytical framework, introduced at the outset, comprises six connected questions: the characterisation of choice of forum clauses; party autonomy; the procedures available for enforcement; judicial discretion in granting relief; the applicable law; and the overriding effect of forum state and international interests (p 1). This framework is one of the book's principal strengths. It connects questions that are often examined separately and demonstrates why the practical effectiveness of a clause cannot be assessed solely by reference to its contractual wording. The central argument is persuasive: choice of forum clauses can help manage the risks associated with international commercial transactions, but their effectiveness requires careful drafting and coherent judicial treatment.

Chapter 2 provides the conceptual foundation by examining competing understandings of the nature of choice of forum clauses. It explores the tension between their contractual or substantive character, commonly associated with traditional common law approaches, and their procedural or public character, associated with civil law approaches. The author appears to favour an approach that recognises both dimensions. I agree with this position. A choice of forum agreement records a private commitment, but its enforcement also affects the exercise of judicial authority. An account that accommodates both features provides a convincing basis for understanding the questions addressed throughout the book.

The chapter also considers the relationship between choice of forum clauses and arbitration agreements, their effects on non-parties, and their interaction with other contractual provisions. The comparison with arbitration is useful because both mechanisms enable parties to organise the resolution of future disputes. The author distinguishes the dual public and private character of choice of forum clauses from the contractual nature of arbitration agreements, thereby clarifying the conceptual basis of the book's subsequent analysis.

Chapter 3 develops the discussion of party autonomy by distinguishing the parties' freedom to determine the contents of their clause from their freedom to control the conduct of litigation. This distinction is helpful: agreement on a forum does not necessarily give parties unrestricted control over the court's response. The treatment of the ouster rule illustrates the tension between private agreement and judicial authority. The book describes the movement away from the traditional objection that parties cannot oust the jurisdiction of common law

courts, while showing the continuing influence of that objection in the Philippines. Its discussion of the Hague Choice of Court Convention 2005 places these domestic approaches within a broader framework for giving effect to party autonomy.

Chapter 4 examines the relief and remedies available in Singapore, Hong Kong, Malaysia and the Philippines. The comparative account reveals important differences within jurisdictions influenced by the common law. Singapore emerges as particularly receptive to contractual enforcement and party autonomy, whereas the Philippine treatment of choice of forum agreements as venue stipulations, together with the continuing influence of the ouster rule, limits their effect. Malaysia places greater emphasis on judicial discretion. The chapter also examines anti-suit injunctions and the recognition and enforcement of foreign judgments associated with the enforcement or breach of choice of forum agreements.

The Singapore discussion is especially instructive. The Singapore International Commercial Court and the operation of the Hague Choice of Court Convention demonstrate the jurisdiction's commitment to facilitating international commercial dispute resolution. Yet the coexistence of different enforcement regimes also creates complexity. Parties may encounter different approaches depending on the court concerned, the applicability of the Convention, the exclusive or non-exclusive character of the clause, and the involvement of third parties. Singapore's experience therefore illustrates a recurring theme of the book: strong support for party autonomy must be accompanied by rules whose practical operation parties can understand and predict.

Chapter 5 considers judicial discretion, including England's judicial influence of The Eleftheria and Spiliada on the treatment of exclusive and non-exclusive jurisdiction clauses in Singapore, Hong Kong and Malaysia. Its examination of whether those clauses should be subjected to similar tests raises an important question about the relationship between contractual commitment and the assessment of the appropriate forum. The discussion helps explain why a court's stated commitment to party autonomy does not, by itself, determine the outcome of an enforcement application.

Chapter 6 examines the relationship between choice of forum clauses and choice of law, focusing on existence, validity and interpretation. The account of

Singapore, Hong Kong and Malaysia shows the influence of English common law approaches, including reliance on the law governing the main contract and the reservation of certain questions to the law of the forum. The operation of the Hague Choice of Court Convention in Singapore introduces a different reference to the law of the chosen court for substantive validity.

The discussion of exclusivity is also valuable. The cases examined suggest that, outside the relevant Convention framework, courts in Singapore, Hong Kong and Malaysia approach exclusivity principally as a question of contractual interpretation rather than through a general presumption. This finding reinforces the practical importance of clear drafting. Parties who intend to confer exclusive jurisdiction should express that intention in terms that minimise uncertainty about the scope and effect of their agreement.

Chapter 7 broadens the analysis by considering forum state and international community interests. Mandatory rules, public policy, comity and related concepts may affect the existence, validity and interpretation of clauses, the availability of relief, and the recognition and enforcement of resulting judgments. The attention given to weaker parties is particularly welcome. Asymmetric agreements, standard-form contracts and consumer transactions reveal why formal consent may not provide a sufficient justification for enforcement in every case. This chapter strengthens the book's account of party autonomy by examining the interests that may legitimately qualify its operation.

Chapter 8 applies the preceding framework to China, Indonesia and Japan. Its discussion demonstrates both the usefulness and the limits of broad classifications into common law and civil law traditions. The Chinese treatment of disputes involving Hong Kong, Macau and Taiwan introduces distinctive questions concerning conflicts between legal systems. The discussion of *forum non conveniens,* anti-suit injunctions and asymmetric jurisdiction agreements further reveals how familiar mechanisms may acquire different functions within a particular legal system. In particular, the book contrasts the emphasis on efficiency in the Chinese approach to *forum non conveniens* with the attention to justice in the English approach.

The Indonesian analysis identifies difficulties arising from the conflation of choice of law and choice of court, including reliance on a foreign choice of law clause as a basis for declining jurisdiction. This is a useful illustration of the practical

consequences of failing to distinguish two different exercises of party autonomy. The Japanese discussion addresses the special circumstances test, the presumption of exclusivity, the treatment of asymmetric clauses, and rules protecting consumers and employees. Together, these accounts show that support for choice of forum agreements operates within procedural and regulatory arrangements that vary considerably across the jurisdictions examined.

Interestingly, the book reveals differing approaches to asymmetric jurisdiction agreements in the civil law jurisdictions examined. Chinese courts enforce such agreements, while a Japanese court has treated an asymmetric jurisdiction clause as exclusive. The Japanese approach nevertheless operates within a framework that includes the special circumstances test and protections for weaker parties, particularly consumers and employees. These findings suggest that asymmetry does not, by itself, necessarily prevent enforcement in China or Japan.

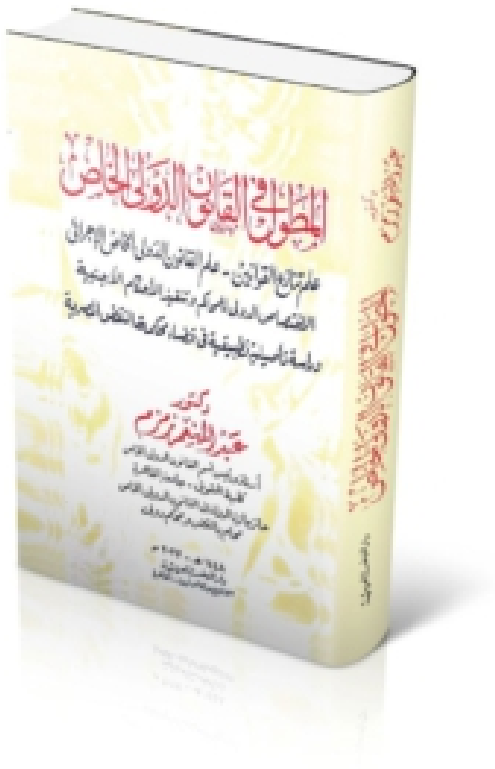
The final chapter draws the comparative findings together effectively. Characterisation shapes the legal tools available; party autonomy guides judicial approaches; forum procedure determines the means of enforcement; and discretion remains an important element of the court's response. The applicable law also matters, although the allocation of questions of existence, validity and interpretation differs between systems. Finally, forum state and international interests may override both private agreement and the otherwise applicable law. These findings support the book's emphasis on careful drafting, predictable judicial analysis and procedural reform. They also provide a basis for considering wider participation in the Hague Choice of Court Convention and the Hague Judgments Convention 2019.

A modest criticism concerns the presentation of the findings. The chapters generally begin with clear and helpful introductions, but more consistent concluding sections would have made it easier to identify and compare their principal lessons. In a study of this breadth, short chapter conclusions could also have helped readers retain the relationship between the detailed national analysis and the book's overarching framework. The strong final chapter substantially compensates for this omission.

Overall, this is an impressive and richly analysed comparative study. Its contribution lies in bringing contractual commitment, procedural rules, judicial discretion and public interests into a sustained examination of choice of forum

clauses across diverse Asian legal systems. It will be valuable to scholars and practitioners of Asian private international law, while also providing a useful framework for comparative work beyond the region. I will certainly return to it, particularly when examining choice of forum agreements in African jurisdictions.

Zamzam on Egyptian Private International Law (in Arabic): Towards Reviving the Golden Age of Egyptian Private International Law



Private international law in Egypt has often been described as being in a state of

stagnation. After enormous efforts by the government since the end of the 19th century, and particularly during the beginning of the 20th century, Egypt succeeded in developing a relatively comprehensive PIL framework, covering choice of law (Arts 10–28 of the 1948 Civil Code), international jurisdiction (Arts 28–35 of the 1968 Code of Civil and Commercial Procedure), and the enforcement of foreign judgments (Arts 296–301 the 1968 Code of Civil and Commercial Procedure), alongside other rules scattered across various pieces of legislation. While these rules could be considered relatively modern and well developed, and broadly in line with the general tendencies of comparative law at the time, they have since become quite outdated and, in many respects, old-fashioned. This, however, has not prevented Egyptian law from exerting considerable influence throughout the region, with more recent codifications often reproducing or adapting Egyptian solutions.

The influence of Egyptian law is due not only to its legislation, but also to the role played by Egyptian scholars in laying the foundations of a genuine Egyptian PIL scholarship. Early treatises were, more often than not, encyclopedic in scope, deeply engaged with comparative law and attentive to judicial practice. In this respect, one may cite the seminal work of Ezzeddine Abdallah, *Al-qānūn ad-Duwalī al-Khāṣ* [القانون الدولي الخاص – *Private International Law*], which consists of two volumes: Volume I, dealing with Nationality, Domicile and the Status of Aliens (1986), and Volume II, dealing with Conflict of Laws and Conflict of Jurisdictions (1986). This work remains, in my view, one of the leading and most authoritative scholarly works in the field.

Slowly, however, the golden age of Egyptian scholarship in private international law entered a period of decline. Much recent scholarship has, more often than not, contented itself with reproducing the work of the great early scholars, while often neglecting the comparative-law dimension from primary sources that was so prominent in those earlier works. Indeed, it is not uncommon for recent publications to refer to existing descriptions of old French case law, to engage in detailed discussions of issues with little practical relevance for Egypt, such as *renvoi*, or to refer to private international law systems that no longer exist, such as those of Czechoslovakia and Yugoslavia. Some also continue to cite, without any particular relevance to the issues under discussion, rather outdated French scholarly works.

More importantly, recent scholarship has generally paid insufficient attention to developments in case law. Rather than systematically examining the more recent decisions of the Egyptian Court of Cassation, despite their relative accessibility, many works continue to rely heavily on older French decisions or on relatively old Egyptian Court of Cassation judgments. This is particularly unfortunate in a field such as private international law, where the practical meaning and development of legal rules can often be understood only by looking closely at how courts actually apply them.

In this regard, the publication of Professor Abdel Moneem Zamzam's book on Egyptian private international law provides a useful opportunity to examine the current state and development of Egyptian law and legal scholarship in this field. Professor Zamzam, who is also Head of the Department of Private International Law at the Faculty of Law, Cairo University, is an outstanding scholar of private international law and international civil procedure, including international insolvency and arbitration, as well as international investment law. He obtained his PhD from the University of Dijon in 2003 with a thesis entitled "Overriding Mandatory Rules in State Courts and International Arbitration: A Comparative Franco-Egyptian Study" (*Les lois de police dans la jurisprudence étatique et arbitrale : étude comparée franco-égyptienne*). The thesis was first published in 2004 by the Atelier national de reproduction des thèses and was republished in 2021 by Éditions universitaires européennes. Professor Zamzam has also published several works in English, notably an article published in 2010 in the *Journal of Private International Law*, entitled "Bankruptcy Jurisdiction and Enforcement of Foreign Bankruptcy Judgments in Egypt".

The book, entitled ***Al-muṭawwal fī al-Qānūn al-Duwalī al-Khāṣ*** **[المطـــول فـــي القانون الدولي الخاص – *The Treatise on Private International Law*] (Dar al-Nahḍa al-ʿArabiyya, 2027)**, revives an old Egyptian tradition of lengthy legal treatises, running to approximately 1,100 pages. It covers the core areas of private international law, namely choice of law, international jurisdiction and the recognition and enforcement of foreign judgments, with particular reference to the case law of the Egyptian Court of Cassation (*Maḥkamat al-Naqḍ* / محكمـــــــة النقض).

The book, kindly made available by the author here for the benefit of Arab PIL scholars and other Arabic-speaking readers, consists of three main parts, preceded by a general introduction.

Part I deals with the general theory of private international law, notably the nature and scope of private international law and its branches (Chap. I), the nature of the conflict-of-laws rule (Chap. II), the application of the conflict-of-laws rule (Chap. III), and disregarding the conflict-of-laws rule and correcting its application (Chap. IV).

Part II deals with the substantive rules of the conflict of laws, notably conflict of laws in personal status matters, or The Principle of the Personal Law (Chap. I), conflict of laws in immovable and movable property, or The Principle of the Territorial Law (Chap. II), conflict of laws in international contractual obligations, or The Principle of Party Autonomy (Chap. III), and conflict of laws in international non-contractual obligations, or The Principle of the Local Law (Chap. IV).

Part III deals with procedural private international law and is divided into two main sections: the first concerns conflicts of international adjudicatory jurisdiction and the international jurisdiction of Egyptian courts (Chap. I), while the second deals with the recognition and enforcement of foreign judgments (Chap. II).

The book has several notable strengths. First, it builds on the existing literature while proposing a broader treatment of private international law in Egypt, often advancing positions that are original, or at least distinct from those prevailing in Egyptian scholarship. Second, it gives an important place to the case law of Egyptian courts, particularly that of the Egyptian Court of Cassation. Finally, in keeping with the tradition of Egyptian scholarly works, it adopts a comparative-law approach, presenting different approaches in major legal systems.

Despite these strong points, there are also some aspects that could, in my view, be taken into account by the author in future editions.

First, I found it particularly unfortunate that the book pays relatively little attention to private international law in other Arab countries. For instance, when discussing the trend towards comprehensive codifications of private international law, the author refers, inter alia, to the Swiss codification of 1984 and the Italian codification of 1995. Surprisingly, however, he also refers to a number of outdated codifications that have since been repealed and replaced by new legislation, such as the Turkish codification of 1982, which was replaced by new

legislation in 2007, the Hungarian PIL Law-Decree of 1979, replaced in 2017, and the Romanian PIL Act of 1992, whose substantive provisions were subsequently incorporated into Book VII of the Civil Code, adopted in 2009 and in force since 2011. He also refers to instruments that, although bearing the title "private international law", deal essentially with choice of law and therefore cannot properly be regarded as comprehensive codifications, such as the Polish Act of 1965, which was replaced by a new Act in 2011.

Surprisingly, the author does not refer to the Tunisian Code of Private International Law of 1998, despite its being available in both Arabic and French. This could have provided a particularly relevant point of reference for a comparative examination of Arab private international law systems. More generally, this reflects a second aspect that, in my view, deserves closer attention: a more systematic comparative-law approach would have benefited from references to the EU regulations, recent developments in US conflict of laws, and, importantly, the work of the Hague Conference on Private International Law (HCCH), including the more recent conventions and other instruments adopted in areas such as international jurisdiction, the recognition and enforcement of foreign judgments, choice of court agreements, and international family law. It would also have been useful to consider contemporary developments observable in other Arab jurisdictions. These developments are largely overlooked, with the author relying instead on classical references found in classical Egyptian legal literature, together with citations to older French textbooks that have since been substantially revised, updated or, in some cases, ceased to be regarded as authoritative references, except in relation to the historical issues that were relevant at the time of their publication.

Another aspect that deserves attention is the use of the case law of the Egyptian Court of Cassation. The author's effort to identify and discuss relevant cases is certainly to be appreciated. At times, however, the references to the case law appear to be more illustrative than substantive. The treatment of derogative choice-of-court agreements provides a good example. The author cites only two decisions in which the Court of Cassation appears to uphold the validity of such agreements. A closer examination of the available case law on the issue, however, reveals a considerably more complex picture, and one that does not necessarily support the author's position in favour of derogative choice-of-court agreements. It is also unfortunate that some recent decisions, including cases reported on this

blog (here, here, here, here, and here) together with the relevant references to the case law, as well as other useful and more recent sources, have not found their way into this latest contribution to Egyptian private international law.

A third point, and in my view the most important one, concerns the history of Egyptian private international law, which is almost entirely overlooked in the book, as if its development had begun only in 1948 with the adoption of the Egyptian Civil Code and the set of private international law rules contained therein. A historical approach to Egyptian private international law, however, would reveal the broader context in which the present rules were developed, the tensions surrounding their adoption, the extraordinary work undertaken by the early scholars, and, above all, the important role played by the case law of the Mixed Courts in shaping the Egyptian private international law that we know today.

These comments may appear critical, but my intention is simply to express the hope that the tradition of the classical authors, who through meticulous comparative research combined with close attention to judicial practice succeeded in bringing Egyptian private international law to a remarkably advanced level for its time, can be revived. In this sense, the challenge today is not merely to describe the current state of Egyptian private international law by largely reproducing the prevailing literature, but to build on the foundations laid by earlier generations while engaging seriously with contemporary comparative developments and the evolving case law of Egyptian courts. If Egyptian private international law is to regain the dynamism and intellectual ambition that characterised what might be described as its golden age, future editions could benefit from a broader comparative perspective, more systematic and substantive engagement with the case law of Egyptian courts, including the Court of Cassation, and greater attention to the historical experiences that have shaped the present system. Such an approach would not simply document the current state of Egyptian private international law; it could also contribute to reviving the golden age of Egyptian private international law and laying the foundations for its further development.

Despite the above comments, the book remains an important contribution to the field and a valuable addition to the literature on Egyptian private international law. It provides a comprehensive account of the current state of Egyptian PIL and, importantly, brings together the relevant statutory provisions, doctrinal

debates and judicial developments in a single work. I hope that it will stimulate further discussion and research and, in future editions, contribute even further to the renewal and development of Egyptian private international law.

Maintenance Duties for a Gestational Surrogate Following Non-Recognition – An Unreported Spanish Judgment

Written by Nicolás Zambrana-Tévar LLM, PhD (KIMEP University)

Facts of the case

An unreported judgment of the Family, Childhood and Capacity Section of the Tribunal de Instancia de Alicante (No. 3), dated 29 April 2026, has attracted attention for ordering a Mexican gestational surrogate to pay child maintenance to the Spanish father for whom she carried a child, despite having no custody, no exercise of parental authority, and no contact rights (here and here).

A Spanish man, described in some reports as resident in Alicante province and in others as working in Switzerland, had a child through gestational surrogacy in Mexico using his own sperm and a donor egg; the surrogate has no genetic link to the child. The child was born on 24 April 2024 and travelled to Spain in January 2025, since when he has lived with the father. A separate, earlier 2024 judgment of the same Alicante court had already determined the father's biological paternity and registered the child, under ordinary Spanish civil-registry rules, with the father's and the surrogate's surnames. In the April 2026 judgment, at the Prosecutor's request and applying Arts. 154 and 158 of the Spanish Civil Code (CC), the court declined to strip the surrogate mother of parental responsibility (*patria potestad*) but suspended its exercise, gave the father sole custody, denied

the mother contact and, because she remains the child's legal mother, ordered her to pay €150/month plus half of extraordinary expenses.

Recent Spanish case law and practice on surrogacy

The Alicante case follows a line the Spanish Supreme Court has been building with similar facts. In STS 496/2025, of 25 March 2025 (ROJ: STS 1262/2025), the Court dealt with a case originating from a surrogacy arrangement in Tabasco, Mexico. The surrogate contributed no genetic material, and the contract expressly stated she was not the legal, biological or genetic mother and renounced *patria potestad* and custody in the father's favour. The children were registered in Tabasco with the father's two surnames, but the Spanish consular registration ultimately recorded the gestational carrier as mother. Years later the father sued in Spain to have her maternal filiation struck entirely and the surrogate mother herself supported his claim. The Spanish Court of Appeal (*Audiencia Provincial*) granted it; the Public Prosecutor appealed in cassation, and the Spanish Supreme Court reversed, reinstating her as legal mother. The Supreme Court applied Art. 10.2, Ley 14/2006 which expressly provides that the maternal filiation of children born through gestation by substitution is determined by childbirth. The Supreme Court treated this as a mandatory rule that could not be circumvented by agreement or by an action challenging the maternal filiation (Arts. 131, 139 CC). The court also rejected a request to refer the question to the CJEU because it considered that nothing in Arts. 19 and 20 TFEU was offended by it. The Court also cited its own earlier judgment, STS 1626/2024 of 4 December 2024, for the related but distinct proposition that a foreign judgment attributing parentage to intended parents cannot be recognised in Spain (*exequatur*) on the same public-policy grounds.

The current administrative framework is set out in the guidelines of the Spanish Ministry of Justice (DGSJFP Instruction of 28 April 2025). The Instruction expressly leaves without effect the earlier Instructions of 2010 and 2019. It provides that a foreign civil-status certificate, a declaration accompanied by medical evidence of birth, or even a foreign judicial decision determining parentage is not, by itself, a sufficient title for registration of a child born through surrogacy. Instead, filiation is to be established through the ordinary mechanisms recognised by Spanish law, including biological filiation and, where appropriate, subsequent adoption.

This doctrine is not merely a registration technicality; it holds even where both the father and the surrogate want the registration undone, which is a stronger statement than a case about recognition of a foreign judgment. Second, the Alicante court's own earlier 2024 filiation ruling, and its 2026 refusal to go further than suspending (rather than terminating) parental responsibility, both sit squarely within this line: once the gestational carrier was treated as the child's legal mother, the ordinary legal consequences of parenthood, including the duty to contribute to the child's maintenance, followed. The Alicante court did not deprive her of parental responsibility; instead, it suspended its exercise, while assigning custody exclusively to the father and excluding contact.

Potential enforcement in Mexico

Whether Mexican law would recognise the same maternal relationship the Spanish courts are drawing consequences from is doubtful. STS 496/2025 illustrates the potential divergence particularly clearly: the contract stated that the gestational carrier was not the legal, juridical or biological mother, and the children were registered in Tabasco with the father's two surnames, whereas the Spanish courts ultimately treated the gestational carrier as the legal mother under Spanish law. Mexican rules on surrogacy and parentage are state-specific, making it necessary to identify the law applicable to the particular arrangement before drawing conclusions about the status that Mexican law would attribute to the gestational carrier. On that view, the child in the Alicante case could be, simultaneously, solely his father's child under Mexican law and jointly his and the surrogate's under Spanish law. That divergence matters practically: a Mexican court asked to enforce the Spanish maintenance order might see the underlying "motherhood" it rests on as itself inconsistent with Mexican public policy, not merely as a foreign court applying stricter substantive rules.

Filiation is governed by Art. 9.4 CC, pointing primarily to the law of the child's habitual residence at the time when filiation is established, with nationality only a fallback. Maintenance is governed, per Spain's own conflicts rule (Art. 9.7 CC), by the 2007 Hague Protocol, whose Art. 3(1) points primarily to the creditor's habitual residence and which, per its Art. 2, applies even where the resulting law is that of a non-Contracting State. The press record is unclear on the relevant facts: the father is described both as Alicante-based and as working in Switzerland, and the child reportedly holds a Swiss passport. A passport evidences nationality, not habitual residence, and nationality isn't the operative

factor for either rule, but if the family's actual centre of life was split between Spain and Switzerland, that bears on which law governed the 2024 filiation ruling in particular, made before the child's reported move to Spain.

If pursued in Mexico, recovery of the Spanish maintenance order would fall under the 1956 UN Convention on the Recovery Abroad of Maintenance (Mexico: party since 1992; Spain: since 1966), since the 2007 Hague Child Support Convention doesn't bind Mexico and the 1989 Spain-Mexico bilateral convention expressly excludes maintenance from its scope. The Mexican authorities or courts would still have to apply the applicable Mexican rules governing recognition and enforcement, including any applicable public-policy limitations. However, the father has reportedly said he won't pursue enforcement of the order. The EU proposal on parenthood recognition does not solve this problem either. The proposal is designed to govern recognition of parenthood established in one Member State by another Member State; it expressly leaves recognition of parenthood established in a third State to national law. Negotiations on the proposal remain ongoing. Thus, even if adopted in its present basic structure, it would not govern recognition in Spain or elsewhere of a parent-child relationship established in Mexico.

The human rights angle

The case sits at an angle to the ECtHR's surrogacy jurisprudence. *Mennesson v. France* found a violation of Article 8 in respect of the children's right to respect for private life because of the failure to recognise their legal relationship with their biological father, while finding no violation as to the parents' own family-life claim; *Paradiso and Campanelli v. Italy*, on referral to the Grand Chamber, found no violation where the intended parents had no biological link to the child at all; *Valdís Fjölnisdóttir and Others v. Iceland* likewise found no violation in the non-recognition of a same-sex couple's intended parenthood, given the practical continuity secured through foster care. All three cases concern the position of intended or genetic parents seeking recognition, not, as in the Alicante case, the position of a gestational carrier who is treated as a legal parent for purposes of imposing parental obligations while her exercise of parental responsibility and contact with the child have been suspended or excluded

The ECtHR's 2019 Advisory Opinion concerning France (P16-2018-001]) further clarified that Article 8 does not require a State to register the details of a foreign

birth certificate in order to recognise the legal relationship between a child born through gestational surrogacy and the intended mother. The Court held that another means of recognition, such as adoption, may satisfy the requirements of Article 8, provided that the procedure available under domestic law can be implemented promptly and effectively and in accordance with the child's best interests. The Advisory Opinion therefore leaves States a choice as to the legal mechanism through which the relationship with the intended mother is recognised, rather than imposing direct registration as the only permissible solution.

The Alicante case raises a different question. Its human-rights significance lies not primarily in the refusal to recognise intended parenthood, but in the consequences of attributing legal motherhood to the gestational carrier. The Strasbourg case law does not appear to have addressed the precise question raised here: whether the attribution of legal motherhood to a gestational carrier may subsequently generate parental obligations, including maintenance, despite the absence of an intended parental relationship between that woman and the child.