

HCCH 2019 Judgments Convention Repository

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Update of 4 April 2023: New entries are printed bold.

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I. Explanatory Reports

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<p>Yang, Yujie</p>	<p>“On the Rules of indirect Jurisdiction responding to Litigation - Based on Article 5, Paragraph 1, Item 6 of the Hague Convention on the Recognition and Enforcement of Judgments in Civil and Commercial Matters” (Master Thesis China Foreign Affairs University Beijing 2021)</p>
<p>Yekini, Abubakri</p>	<p>“The Hague Judgments Convention and Commonwealth Model Law - A Pragmatic Perspective”, Oxford 2021.</p>
<p>Yeo, Terence</p>	<p>“The Hague Judgments Convention - A View from Singapore”, Singapore Academy of Law Journal (e-First) 3rd August 2020 (available here)</p>
<p>Yuzhakov, D.A.</p>	<p>“Legal Regulation of the Procedures for Enforcement of Decisions of Foreign Courts in Economic Disputes”, Urgent Issues of the Entrepreneurship Law, Civil Litigation and Arbitration (Perm State University) No. 4 (2021), pp. 119-123 (available here)</p>

Zasemkova, Olesya Fedorovna	“ ‘Judicial Convention’ as a New Stage in the Recognition and Enforcement of Foreign Judgments”, Lex Russica 2019-10, pp. 84-103 (available here)
Zasemkova, Olesya Fedorovna	“Recognition and Enforcement of Foreign Judgments in the Context of the Adoption of the « Judicial Convention » 2019”, in Zhuikov V.M., Shchukin A.I. (eds.), Liber Amicorum Natalia Ivanovna Marysheva, pp. 196-211
Zernikow, Marcel	“Recognition and Enforcement of Foreign Decisions in MERCOSUR Letters Rogatory (Carta Rogatória) and National Civil Procedure” Yearbook of Private International Law 22 (2020/2021), pp. 353-380
Zhang, Chunliang; Huang, Shan	“On the Common Courts Rules in Hague Judgments Convention - China’s way for the Judicial Assistance under Belt and Road Initiative”, Journal of Henan University of Economics and Law 2020-05, pp. 103-113
Zhang, Lizhen	“On the Defamation Problem in the Hague Judgments Project: Ever In and Now out of the Scope”, Wuhan University International Law Review 2019-01, pp. 41-58 (available here)
Zhang, Wenliang	“The Finality Requirement of Recognition and Enforcement of Foreign Judgments”, Wuhan University Law Review 2020-02, pp. 19-38
Zhang, Wenliang; Tu, Guangjian	“The Hague Judgments Convention and Mainland China-Hong Kong SAR Judgments Arrangement: Comparison and Prospects for Implementation”, Chinese Journal of International Law 20 (2021), pp. 101-135

Zhang, Wenliang; Tu, Guangjian	“The 1971 and 2019 Hague Judgments Conventions: Compared and Whether China Would Change Its Attitude Towards The Hague”, <i>Journal of International Dispute Settlement (JIDS)</i> , 2020, 00, pp. 1-24
Zhang, Zhengyi; Zhang, Zhen	“Development of the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters and Its Implication to China”, <i>International and Comparative Law Review</i> 2020, pp. 112-131
Zhao, Ning	“The HCCH 2019 Judgments Convention, adding essential components for an effective international legal framework on recognition and enforcement”, in UIHJ (ed.), David Walker (dir.), <i>Cyberjustice, de nouvelles opportunités pour l’huissier de justice / Cyberjustice, New Opportunities for the Judicial Officer - XXIVe Congrès de l’Union Internationale des Huissiers de Justice - Dubai - 22 au 25 Novembre 2021, Bruxelles 2021</i> , pp. 120-133
Zhao, Ning	“Completing a long-awaited puzzle in the landscape of cross-border recognition and enforcement of judgments: An overview of the HCCH 2019 Judgments Convention”, <i>Swiss Review of International and European Law (SRIEL)</i> 30 (2020), pp 345-368
Zirat, Gennadii	“Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters: A new Contribution of the Hague Conference on Private International Law to the Unification of International Civil Procedure”, <i>Ukrainian Journal of International Law</i> 2020-03, pp. 105-112 (available here)

III. Recordings of Events Related to the HCCH 2019 Judgments Convention

ASADIP; HCCH	“Conferencia Internacional: Convención HCCH 2019 sobre Reconocimiento y Ejecución de Sentencias Extranjeras”, 3 December 2020 (full recording available here and here)
ASIL	“The Promise and Prospects of the 2019 Hague Convention”, 25-26 June 2020 (full recording available here and here)
CILC; HCCH; GIZ; UIHJ	“HCCH 2019 Judgments Convention: Prospects for the Western Balkans”, Regional Forum 2022, 30 June-1 July 2022 (short official video available here)
CIS Arbitration Forum	“CIS-related Disputes: Treaties, Sanctions, Compliance and Enforcement, Conference, Keynote 2: Russia’s accession to the Hague Convention on Recognition and Enforcement of Foreign Judgments”, 25-26 May 2021 (recording available here)
CUHK	“Latest Development of Hague Conference on Private International Law and the Hague Judgments Convention”, Online Seminar by Prof. Yun Zhao, 25 March 2021 (full recording available here)
Department of Justice Hong Kong; HCCH	“Inaugural Global Conference - 2019 HCCH Judgments Convention: Global Enforcement of Civil and Commercial Judgments”, 9 September 2019 (recording available here)
GIAS	“Arbitration v. Litigation: Can the Hague Foreign Judgments Convention Change the Game?, Panel 2, 10th Annual International Arbitration Month, Commercial Arbitration Day”, 25 March 2022 (full recording available here)

<p>HCCH</p>	<p>“HCCH a Bridged: Innovation in Transnational Litigation - Edition 2021: Enabling Party Autonomy with the HCCH 2005 Choice of Court Convention”, 1 December 2021 (full recording available here)</p>
<p>HCCH</p>	<p>“22nd Diplomatic Session of the HCCH: The Adoption of the 2019 Judgments Convention”, 2 July 2020 (short documentary video available here)</p>
<p>JPRI; HCCH; UNIDROIT; UNCITRAL</p>	<p>“2020 Judicial Policy Research Institute International Conference - International Commercial Litigation: Recent Developments and Future Challenges, Session 3: Recognition and Enforcement of Foreign Judgments”, 12 November 2020 (recording available here)</p>
<p>Lex & Forum Journal; Sakkoula Publications SA</p>	<p>« The Hague Conference on Private International Law and the European Union - Latest developments », 3 December 2021 (full recording available here)</p>
<p>UIHJ; HCCH</p>	<p>“3rd training webinar on the Hague Conventions on service of documents (1965) and recognition and enforcement of judgements (2019)”, 15/18 March 2021 (full recording available here in French and here in English)</p>
<p>University of Bonn; HCCH</p>	<p>“Pre-Conference Video Roundtable on the HCCH 2019 Judgments Convention: Prospects for Judicial Cooperation in Civil and Commercial Matters between the EU and Third Countries”, 29 October 2020 (full recording available here)</p>



**The HCCH 2019 Judgments Convention:
Cornerstones - Prospects - Outlook**

University of Bonn / HCCH

Friday and Saturday, 9 and 10 June 2023



The HCCH 2019 Judgments Convention: Cornerstones – Prospects – Outlook

Moderators: Prof Dr Moritz Brinkmann, Prof Dr Nina Dethloff, Prof Dr Matthias Weller, University of Bonn;
Prof Dr Matthias Lehmann, University of Vienna;
Dr João Ribeiro-Bidaoui, Former First Secretary, Melissa Ford, Secretary, HCCH

Dates: Friday and Saturday, 9 and 10 June 2023

Venue: Universitätsclub Bonn, Konviktstraße 9, D – 53113 Bonn

8.30 a.m. Registration

9.00 a.m.

Welcome notes

Prof Dr Matthias Weller, Director of the Institute for German and International Civil Procedural Law, Rheinische Friedrich-Wilhelms-Universität Bonn;
Dr Christophe Bernasconi, Secretary General, HCCH

Part I: Cornerstones

1. Scope of application

Prof Dr Xandra Kramer, Erasmus University Rotterdam, Utrecht University, The Netherlands

2. Judgments, Recognition, Enforcement

Prof Dr Wolfgang Hau, Ludwig-Maximilians-Universität Munich, Germany

3. The jurisdictional filters

Prof Dr Pietro Franzina, Catholic University of Milan, Italy

4. Grounds for refusal

Adj Prof Dr Marcos Dotta Salgueiro, University of the Republic, Montevideo; Director of International Law Affairs, Ministry of Foreign Affairs, Uruguay

5. Article 29: From a Mechanism on Treaty Relations to a Catalyst of a Global Judicial Union

Dr João Ribeiro-Bidaoui, Former First Secretary, HCCH; Dr Cristina Mariottini, Senior Research Fellow at the Max Planck Institute for International, European and Regulatory Law, Luxembourg

1.00 p.m.

Lunch Break

6. The HCCH System for choice of court agreements: Relationship of the HCCH Judgments Convention 2019 to the HCCH 2005 Convention on Choice of Court Agreements

Prof Dr Paul Beaumont, University of Stirling, United Kingdom

Part II: Prospects for the World

1. European Union

Dr Andreas Stein, Head of Unit, DG JUST - A1 "Civil Justice", European Commission

2. Perspectives from the US and Canada

Professor Linda J. Silberman, Clarence D. Ashley Professor of Law, Co-Director, Center for Transnational Litigation, Arbitration, and Commercial Law, New York University School of Law, USA
Professor Geneviève Saumier, Peter M. Laing Q.C. Professor of Law, McGill Faculty of Law, Canada

3. Southeast European Neighbouring and EU Candidate Countries

Prof Dr Ilija Rumenov, Assistant Professor at Ss. Cyril and Methodius University, Skopje, North Macedonia

8.00 p.m.

Conference Dinner (€ 60.-)

Dinner Speech

Prof Dr Burkhard Hess, Director of the Max Planck Institute for International, European and Regulatory Law, Luxembourg

9.00 a.m.

Part II continued: Prospects for the World

4. Perspectives from the Arab World

Prof Dr Bélig Elbalti, Associate Professor at the Graduate School of Law and Politics at Osaka University, Japan

5. Prospects for Africa

Prof Dr Abubakri Yekini, University of Manchester, United Kingdom

Prof Dr Chukwuma Okoli, University of Birmingham

6. Gains and Opportunities for the MERCOSUR Region

Prof Dr Verónica Ruiz Abou-Nigm, Director of Internationalisation, Professor in International Private Law, School of Law, University of Edinburgh, United Kingdom

7. Perspectives for ASEAN

Prof Dr Adeline Chong, Associate Professor of Law, Yong Pung How School of Law, Singapore Management University, Singapore

8. China

Prof Dr Zheng (Sophia) Tang, University of Newcastle, United Kingdom

1.00 p.m.

Lunch Break

Part III: Outlook

1. Lessons Learned from the Genesis of the HCCH 2019 Judgments Convention

Dr Ning Zhao, Principal Legal Officer, HCCH

2. International Commercial Arbitration and Judicial Cooperation in civil matters: Towards an Integrated Approach

José Angelo Estrella-Faria, Principal Legal Officer and Head, Legislative Branch, International Trade Law Division, Office of Legal Affairs, United Nations; Former Secretary General, UNIDROIT

3. General Synthesis and Future Perspectives

Hans van Loon, Former Secretary General, HCCH

Registration Fee:	€ 220.-
Young Scholars Rate (limited capacity):	€ 110.-
Dinner (optional):	€ 60.-

Registration: Please register with sekretariat.weller@jura.uni-bonn.de. Please communicate your full name and your postal address (for accounting purposes). Clearly indicate whether you want to benefit from the young scholars' reduction of the conference fees and whether you want to participate in the conference dinner. You will receive an invoice per email for the respective conference fee and, if applicable, for the conference dinner. Please make sure that we receive your payment at least two weeks in advance to the conference (26 May 2023 at the latest). After receiving your payment, we will send out a confirmation of your registration. This confirmation will allow you to access the conference hall and the conference dinner.

Please note: Access will only be granted if you are vaccinated against Covid-19. Please confirm in your registration that you are, and attach an e-copy of your vaccination document. Please follow further instructions on site. Thank you for your cooperation. Accommodation: We have blocked a larger number of rooms in the newly built hotel "Motel One Bonn-Beethoven", <https://www.motel-one.com/de/hotels/bonn/hotel-bonn-beethoven/>, few minutes away from the conference venue. The hotel's address is: Berliner Freiheit 36, D – 53111 Bonn. The contact details are: bonn-beethoven@motel-one.com, +49 228 9727860. These rooms need to be booked on your own initiative and account by making reservation with the Hotel and by referring to „Universität Bonn“. These rooms will be blocked until 22 April 2023 at the latest. As there will be several larger events in town at the date of our conference we recommend making arrangements.

<https://www.jura.uni-bonn.de/professur-pr-of-dr-weller/the-hcch-2019-judgments-convention-on-cornerstones-prospects-outlook-conference-on-9-and-10-june-2023>

Dear Friends and Colleagues,

On 23 June 2022, the European Parliament by adopting JURI Committee Report A9-0177/2022 gave its consent to the accession of the European Union to the HCCH 2019 Judgments Convention. The Explanatory Statement describes the convention with a view to the “growth in international trade and investment flows” as an “instrument [...] of outmost importance for European citizens and businesses” and expressed the hope that the EU’s signature will set “an example for other countries to join”. However, the Rapporteur, Ms. Sabrina Pignedoli, also expresses the view that the European Parliament should maintain a strong role when considering objections under the bilateralisation mechanism provided for in Art. 29 of the Convention. Additionally, some concerns were raised regarding the protection of employees and consumers under the instrument. For those interested in the (remarkably fast) adoption process, the European Parliament’s vote can be rewatched here. Given these important steps towards accession, June 2023 should be a perfect time to delve deeper into the subject-matter, and the Conference is certainly a perfect opportunity for doing so:

The list of speakers includes internationally leading scholars, practitioners and experts from the most excellent Universities, the Hague Conference on Private International Law (HCCH), the United Nations Commission on International Trade Law (UNCITRAL), and the European Commission (DG Trade, DG Justice). The Conference is co-hosted by the Permanent Bureau of the HCCH.

The Organizers kindly ask participants to contribute with EUR 220.- to the costs of the event and with EUR 60.- to the conference dinner, should they wish to participate. There is a limited capacity for young scholars to contribute with EUR 110.- to the conference (the costs for the dinner remain unchanged).

Please register with sekretariat.weller@jura.uni-bonn.de. **Please communicate your full name and your postal address (for accounting purposes).** Clearly indicate whether you want to benefit from the young scholars’ reduction of the conference fees and whether you want to participate in the conference dinner. You will receive an **invoice per email** for the respective conference fee and, if applicable, for the conference dinner. **Please make sure that we receive your**

payment at least two weeks in advance to the conference (26 May 2023 at the latest). After receiving your payment we will send out a confirmation of your registration. This confirmation will allow you to access the conference hall and the conference dinner.

Accommodation: We have blocked a larger number of rooms in the newly built hotel **“MotelOne Bonn-Beethoven”**, <https://www.motel-one.com/de/hotels/bonn/hotel-bonn-beethoven/>, few minutes away from the conference venue. The hotel’s address is: Berliner Freiheit 36, D - 53111 Bonn. The contact details are: bonn-beethoven@motel-one.com, +49 228 9727860. These rooms need to be booked on your own initiative and account by making reservation with the Hotel and by referring to „Universität Bonn“. These rooms will be **blocked until 22 April 2023 at the latest.** As there will be several larger events in town at the date of our conference we recommend making arrangements for accommodation quickly.

Further information on the conference:
<https://www.jura.uni-bonn.de/professur-prof-dr-weller/the-hcch-2019-judgments-convention-cornerstones-prospects-outlook-conference-on-9-and-10-june-2023>

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Programme

Friday, 9 June 2023

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9.00 a.m. Welcome notes

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Dr Christophe Bernasconi, Secretary General of the HCCH

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Dr Cristina M. Mariottini, Jurist in Luxembourg

1.00 p.m.

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2. Perspectives from the US and Canada

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Prof Geneviève Saumier, Peter M. Laing Q.C. Professor of Law, McGill Faculty of Law, Canada

3. Southeast European Neighbouring and EU Candidate Countries

Ass. Prof. Dr.sc Ilija Rumenov, Assistant Professor at Ss. Cyril and Methodius University, Skopje, Macedonia

8.00 p.m. Conference Dinner (€ 60.-)

Dinner Speech

Prof Dr Burkhard Hess, Director of the Max Planck Institute for International, European and Regulatory Law, Luxembourg

Saturday, 10 June 2023

9.00 a.m. Part II continued: Prospects for the World

4. Perspectives from the Arab World

Prof Dr Bélig Elbalti, Associate Professor at the Graduate School of Law and Politics at Osaka University, Japan

5. Prospects for Africa

Prof Dr Abubakri Yekini, University of Manchester, United Kingdom

Prof Dr Chukwuma Okoli, University of Birmingham, United Kingdom

6. Gains and Opportunities for the MERCOSUR Region

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1.00 p.m. Lunch Break

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3. General Synthesis and Future Perspectives

Hans van Loon, Former Secretary General, HCCH

February 7, 2023/by Matthias Weller

Download the Conference Poster as a PDF Document.

Invitation: The HCCH 2019 Judgments Convention: Prospects for Judicial Cooperation in Civil and Commercial Matters between the EU and Third Countries – Pre- Conference Video Roundtable University of Bonn / HCCH on 29 October 2020



**The HCCH 2019 Judgments Convention:
Prospects for Judicial Cooperation in Civil and
Commercial Matters between the EU and Third Countries**

**Pre-Conference Video Roundtable
University of Bonn / HCCH**

Thursday, 29 October 2020, 6.30 p.m. (UTC+1) (via Zoom)

Speakers:

Dr Christophe Bernasconi, Secretary General of the HCCH

**Colin Brown, Unit Dispute Settlement and Legal Aspects of Trade Policy,
DG Trade, European Commission**

**Dr Alexandra Diehl, White & Case LLP, Frankfurt, Chair of the
Arbitration/Litigation/Mediation (“ALM”) Working Group of the German-
American Lawyers Association (DAJV)**

**Dr Veronika Efremova, Senior Project Manager GIZ, Open Regional Funds
for South East Europe-Legal Reform**

**Andreas Stein, Head of Unit, DG JUST - A1 “Civil Justice”, European
Commission**

**Dr Jan Teubel, German Federal Ministry of Justice and Consumer
Protection**

Moderators:

Dr João Ribeiro-Bidaoui, First Secretary, HCCH

Prof Dr Matthias Weller, University of Bonn

The largest proportion of EU economic growth in the 21st century is expected to arise in trade with third countries. This is why the EU is building up trade relations with many states and other regional integration communities in all parts of the world. The latest example is the EU-MERCOSUR Association Agreement concluded on 28 June 2019. With the United Kingdom's exit of the Union on 31 January 2020, extra-EU trade with neighbouring countries will further increase in importance. Another challenge for the EU is China's "Belt and Road Initiative", a powerful global development strategy that includes overland as well as sea routes in more than 100 states around the globe. The USA are currently the largest trade partner of the EU. The increasing volume of trade with third states will inevitably lead to a rise in the number and importance of commercial disputes. This makes mechanisms for their orderly and efficient resolution indispensable. China is already setting up infrastructures for commercial dispute resolution alongside its belts and roads. In contrast, the EU still seems to be in search of a strategy for judicial cooperation in civil matters with countries outside the Union. The HCCH 2019 Judgments Convention may be a valuable tool to establish and implement such a strategy, in particular alongside the EU's external trade relations. These prospects will be discussed by the speakers and a global audience in this Pre-Conference Video Roundtable.

We warmly invite you to participate and discuss with us. In order to do so, please register with sekretariat.weller@jura.uni-bonn.de. You will receive the access data for the video conference via zoom per email, including our data protection concept, the day before the event.

If you have already registered and received a confirmation from our office (please allow us a couple of days for sending it back to you), your registration is valid and you do not need to re-register.

Please do not hesitate to forward our invitation to friends and colleagues if you wish.

Main Conference “The HCCH 2019 Judgments Convention”, 13 and 14 September 2021

Our event intends to prepare the main conference on the HCCH 2019 Judgments Convention at the University of Bonn (Professors Moritz Brinkmann, Nina Dethloff, Matthias Lehmann, Wulf-Henning Roth, Philipp Reuss, Matthias Weller), co-hosted by the HCCH (Dr Christophe Bernasconi, Dr João Ribeiro-Bidaoui), on 13 and 14 September 2021 (originally scheduled for 25 and 26 September 2020, but rescheduled to avoid Covid-19 risks). At this conference on the campus of the University of Bonn, leading experts will present on the legal concepts and techniques of the Convention, and policy issues will be further developed.

Speakers will include (listed chronologically):

Hans van Loon (key note), Former Secretary General of the Hague Conference on Private International Law, The Hague;

Prof Dr Xandra Kramer, Erasmus University Rotterdam;

Prof Dr Wolfgang Hau, Ludwig-Maximilians-Universität Munich;

Prof Dr Pietro Franzina, Catholic University of Milan;

Prof Dr Francisco Garcimartín Alférez, Autonomous University of Madrid;

Dr Ning Zhao, Senior Legal Officer, HCCH;

Prof Paul Beaumont, University of Stirling;

Prof Dr Marie-Elodie Ancel, University Paris 2 Panthéon-Assas;

Dr Pippa Rogerson, Reader in Private International Law, Faculty of Law, Cambridge;

Ass. Prof Dr Ilija Rumenov, Ss. Cyril and Methodius University, Skopje, Macedonia;

Dr Veronica Ruiz Abou-Nigm, Director of Internationalisation, Senior Lecturer in International Private Law, School of Law, University of Edinburgh;

Prof Zheng (Sophia) Tang, University of Newcastle;

Jose Angelo Estrella-Faria, Principal Legal Officer and Head, Legislative Branch International Trade Law Division, Office of Legal Affairs, United Nations, Former Secretary General of UNIDROIT.

For the full programme see <https://www.jura.uni-bonn.de/professur-prof-dr-weller/conference-on-the-hcch-2019-judgments-convention-on-13-and-14-september-2021/>. You will receive an invitation for registration in due time. A registration fee of € 100.- will be asked for participating.

Mandatory Mediation Process Has Been Introduced in Turkey Relating to Certain Consumer Disputes

The Law Amending the Civil Procedure Law and Certain Laws No. 7251 has entered into force on 28 July 2020 and has amended the Consumer Protection Law No. 6502. Accordingly, a mandatory mediation process has been implemented under Article 73/A of the Consumer Protection Law as a prerequisite to file a lawsuit relating to consumer disputes having a monetary claim of 10,390 Turkish Liras and above. Provisional Article 2 of the Consumer Protection Law excludes the application of this mandatory mediation rule to cases pending before the first instance and the regional courts of appeal as well as the Court of Cassation, as of the date of entry into force of this amendment.

The amendment in the Consumer Protection Law further envisages exceptions to the said mandatory mediation process. Pursuant Article 73/A/2 of the Consumer Protection Law, disputes within the competence of consumer arbitration tribunals and the objections made against the decisions of the tribunal, interim injunctions, disputes regarding the suspension of production or sales of goods or recalling of the goods from the market and disputes having a nature of a consumer transaction and arising from rights in rem in relation to a immovable property are not subjected to this mandatory mediation process. It is important to add that pursuant Consumer Protection Law certain consumer disputes are envisaged to be resolved through a mandatory consumer arbitration process.

Under Turkish law, a mandatory mediation condition has also been envisaged relating to commercial disputes and certain employment disputes. In relation to commercial disputes, Turkish Commercial Code Article 5/A is the relevant piece of legislation. It is clearly regulated under this article that as of 01.01.2019, completing the mandatory mediation process prior to court proceedings is a prerequisite for the commercial disputes relating to receivables and compensation of a sum. Relating to employment disputes, the relevant piece of legislation regarding the prerequisite of mediation is the Law on Labour Courts numbered 7036. Pursuant Article 3/1 of the said law, in relation to legal disputes relating to employee or employer receivables, compensation and reemployment based on law or individual or collective bargaining agreements, having applied to the mediation process prior to court proceedings is regulated as a prerequisite. This procedural requirement does not apply to pecuniary and non-pecuniary compensation claims arising from work accident or occupational disease and declaratory and recourse actions as well as objections related to such claims pursuant Article 3/3 of the Law on Labour Courts.

It is also important to note that pursuant Article 18/A/11 of the Law on Mediation in Civil Disputes, in the event that the mediation process is ended due to the absence of one of the parties in the first meeting without a valid excuse, that party shall be liable from the costs of litigation; whilst the attorney fees cannot be claimed from the other party even where this party eventually partially or completely succeeds in the relevant case. Nevertheless, in relation to consumer disputes, the recent amendment under the Consumer Protection Law envisages an exception under Article 73/A and provides that where the consumer does not attend the first meeting of the mediation process without a valid excuse he/she

shall not be liable of the legal costs and the fees of his/her attorney can be collected from the other party where he/she receives a judgement in his/her favour.

Pursuant the *lex fori* principle, where a dispute involving a foreign element is brought before a Turkish court, the prerequisite of having completed the mandatory mediation process shall be fulfilled pursuant the aforementioned laws in relation to consumer, commercial and employment disputes. Where the parties fail to fulfill this prerequisite and initiate court proceedings in the absence of a pre-trial mediation process, the case will be dismissed with no further action pursuant Article 18/A/2 of the Law on Mediation in Civil Disputes.

Ethiopia's Ratification of Convention on the Recognition and Enforcement of Foreign Arbitral Awards: A reflection

Written by Bebizuh Mulugeta Menkir, Lecturer of Laws, University of Gondar

babimulugeta@gmail.com

Ethiopia, located in east Africa, is the second most populous country in the continent. The Ethiopian parliament has recently ratified, through proclamation No 1184/2020[1], the "Convention on the Recognition and Enforcement of Foreign Arbitral Awards" which is commonly known as "New York Convention" (here after referred as "the Convention"). This short piece aims to reflect some points in reaction to this ratification proclamation, specifically changes that this will bring to the approach to arbitration in Ethiopia.

As stated in the Convention, state parties are obliged to recognize and give effect to arbitral agreements including an arbitral clause; and ordinary courts are

precluded from exercising their jurisdiction on the merits of the case.[2] In addition, unless in exceptional circumstances recognized under the convention, foreign arbitral awards shall be enforced just like domestic arbitral awards.[3]

By ratifying the Convention, Ethiopia undertakes to perform the above-mentioned and other obligations of the Convention. As a result, some of the hitherto debatable issues are addressed by the terms of the Convention. For instance, the Ethiopian Supreme Court cassation bench had previously passed a decision that rejects the parties' agreement that makes the outcome of the arbitration to be final.[4] In its decision, the cassation bench contends that its mandate given by the Ethiopian constitution as well as the "Federal Courts Proclamation re-amendment Proclamation No 454/1997" cannot be limited by an arbitration finality clause. But now, this power of cassation can be taken to have ceased at least in relation to cases falling under the scope of application of the Convention.

The declarations and reservation that Ethiopia has entered while ratifying the Convention should not be forgotten though. As such, Ethiopia will apply the Convention only in relation to arbitral awards made in the territory of another contracting state.[5] In the Civil Procedure Code of Ethiopia, Art 458 and Art 461(1) (a), the law that had been in force before the ratification of the Convention, reciprocity was one of the requirements that need to be fulfilled before recognizing and giving effect to the terms of foreign judgments as well as foreign arbitral awards.

Ethiopian courts require the existence of a reciprocity treaty signed between Ethiopia and the forum state whose judgment is sought to be recognized or enforced.[6] It is fair to assume that Ethiopian courts would have the same stand in relation to foreign arbitral awards. And Art 2(1) has fulfilled this requirement because the arbitral award has been given in the member state to the Convention by itself warrants the recognition and enforcement of the award in Ethiopia.

Moreover, Ethiopia also declares that "the convention will apply on differences arising out of legal relationships, whether contractual or not, which are considered commercial under the National Law of Ethiopia." [7] But here, a national law that provides a comprehensive list or definition of commercial activities hardly exists. As a result, while giving effect to the terms of the Convention, Ethiopian courts are expected to answer what sort of activities shall be deemed to be commercial activities according to Ethiopian law.

The definition contained under Art 2(6) of the “Trade Competition and Consumers Protection Proclamation” will provide some help in identifying “commercial activities” in Ethiopia. Accordingly, “Commercial activities are activities performed by a business person as defined under sub-Art 5 of this article.”[8] And Art 2(5) defines a business person as “any person who professionally and for gain carries on any of the activities specified under Art 5 of the Commercial Code, or who dispenses services or who carries those commercial activities designed as such by law”. [9] Moreover, it is to be noted that the “Commercial Registration and Licensing Proclamation (Proclamation No. 980/2016)” also provides the same kind of definition for commercial activities.[10]

From the combined reading of the above provisions, commercial activities are those activities listed under Art 5 of the Commercial Code, when they are performed by a person professionally and for gain. However, this cannot be a comprehensive answer to the question, as there can be areas other than those listed under Art 5 of the Commercial Code that can be characterized as commercial activities. In addition, there are numerous service deliveries that can be considered as commercial activities. In such cases, Ethiopian courts will have to consult other domestic laws and decide whether the activity in question can be considered as commercial or not.

Last but not least, even if ratified treaties are declared to be an integral part of the law of Ethiopia[11], the domestic application of treaties whose contents have not been published in domestic law gazette has been a debatable issue for long. As there are points that are not incorporated under the ratification proclamation, the same problem may probably arise in relation to the New York Convention. To avoid this challenge, the Ethiopian parliament should have published the provisions of the Convention together with the ratification proclamation.[12] As per its responsibility under Art 5 of the ratification proclamation the Federal Attorney General, should at least have the Convention translated to Ethiopian working languages.

[1] The Convention on the Recognition and Enforcement of Foreign Arbitral Awards Ratification Proclamation, Proclamation No 1184/2020, Federal *Negarit*

Gazette, 26th year No 1, Addis Ababa, 13th March 2020.

[2] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), Art. II(1),(2),(3)

[3] *Id.* Art I and V

[4] National Mineral Corporation Plc. vs. Danni Drilling plc., Federal Supreme Court, cassation bench

[5] Ratification Proclamation, *supra* note 1, Art 2(1)

[6] See *paulos papassinus* case, Federal Supreme court File no 1769/88; *Yosera Abdulmuen et al. vs. Abdulkeni Abdulmuen*, Federal Supreme Court of Ethiopia, Cassation Bench , Fed Sup. Court File No 78206

[7] Ratification Proclamation, *supra* note 1, Art 2(2)

[8] Trade Competition and Consumers Protection Proclamation, Proclamation No 813/2013, Federal *Negarit* Gazette, 20th year No 28, Addis Ababa, 21st March 2013, Art 2(6)

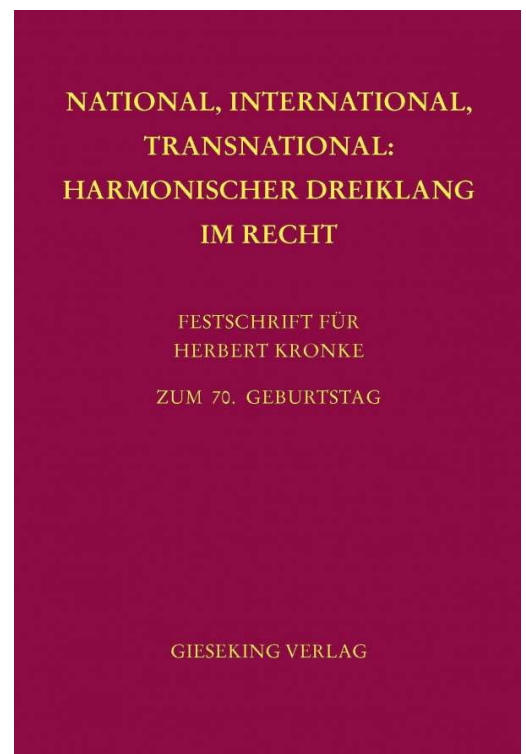
[9] *Id.* Art. 2(5)

[10] The Commercial Registration and Licensing Proclamation, Proclamation No 980/2016, Federal *Negarit* Gazette, 22nd year No. 101, Addis Ababa, 5th August 2016, Art 2(2)&(3)

[11] Constitution of Federal Democratic Republic of Ethiopia, Proclamation No 1/1995, Federal *Negarit* Gazette, 1st year No.1 , Addis Ababa, 21st August 1995, Art 9(4)

[12] International Agreements Making and Ratification Procedure (Proclamation No 1024/2017) states that “The House of Peoples’ Representatives may decide to publish the provisions of the international agreements with the ratification proclamation.”(Art. 11)

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Job Offer at the University of Bayreuth

by Professor Dr Robert Magnus

The chair of civil law III at the Faculty of law and economics of the University of Bayreuth offers a position as a

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The Hague Academy of International Law Advanced Course in Hong Kong: First Edition: Current Trends on International Commercial Dispute Settlement

In cooperation with the Asian Academy of International Law, the Hague Academy of International Law will hold its first edition of its Advanced Courses in Hong Kong from 7 to 11 December 2020. The topic will be: “Current Trends on International Commercial Dispute Settlement”.

For this special programme, the Secretary-General of The Hague Academy of International Law has invited leading academics and practitioners from Paris (Professor Diego P. Fernández Arroyo), New York (Professor Franco Ferrari), Bonn (Professor Matthias Weller), Singapore (Ms Natalie Morris-Sharma), and Beijing (Judge Zhang Yongjian) to present expert lectures on the United Nations Convention on International Settlement Agreements Resulting from Mediation, Investor-State Dispute Settlement, international commercial arbitration, settlement of international commercial disputes before domestic courts, and the developments of the International Commercial Court. Registered participants will have pre-course access to an e-learning platform that provides reading documents prepared by the lecturers. At the end of the course, a certificate of attendance will be awarded.

For more information see [here](#).

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From anti-suit injunctions to ‘quasi’ anti-suit injunctions and declaratory relief for breach of a choice of court agreement: a whiter shade of pale?

Nearly a year ago I reported on a Greek judgment refusing execution of two English orders issued on the basis of a High Court judgment which granted declaratory relief to the applicants. This came as a result of proceedings initiated in Greece, in breach of the settlement agreements and the exclusive jurisdiction clauses in favor of English courts. A recent judgment rendered by the same court confirmed the incidental recognition of the same High Court judgment, which resulted in the dismissal of the claim filed before Greek courts due to lack of jurisdiction.

Piraeus Court of Appeal Nr. 89/31.01.2020

THE FACTS

The facts of the case are clearly presented in the case *Starlight Shipping Co v Allianz Marine & Aviation Versicherungs AG* [2014] EWHC 3068 (Comm) (26 September 2014). The UK defendants invoked before the Piraeus first instance court the judgment aforementioned, and requested incidental recognition in Greece. The Piraeus court granted recognition, and dismissed the claim. The plaintiffs appealed, seeking reversal on two grounds: Lack of res iudicata and violation of Article 34 (1) Brussels I Regulation.

THE RULING

The Piraeus CoA founded its ruling on point 39 of the English judgment:

39. *So far as the Hellenic settlement agreement is concerned, clause 2 expressly provides that the payment of U.S.\$4.8 million is “in full and final settlement of all and any claims they may have under the Policy in relation to the loss of [the vessel] against the Underwriters and/or against any of its servants and/or agents..” As with the CMI and LMI settlement agreements, that wording settles claims under the policy in relation to the loss of the vessel. Accordingly, by application of the reasoning of Longmore LJ in the Court of Appeal, as set out at [32] to [35] above, **the claims against Hellenic in Greece are within the settlement and indemnity provisions in the Hellenic settlement agreement and in breach of the exclusive jurisdiction clause in the Hellenic settlement agreement and the arbitration clause in the underlying Policy...***

Res iudicata and public policy

The Piraeus court had no difficult task in establishing the finality of the English judgment: It simply referred to the certificate issued by the English court.

The public policy defence was also considered as unfounded, by reference to Article 35 (2 and 3) Brussels I Regulation.

No anti-suit injunction order

It then stressed out that the foreign judgment solidifies the exclusive international jurisdiction of English courts, without ordering the claimants/appellants to refrain from filing an action or moving ahead with the proceedings before Greek courts, by imposing any measures for this purpose. Hence, the court continues, the foreign judgment in question fulfils the criteria under Article 32 Brussels I Regulation, and therefore it is not considered as an anti-suit injunction, because it does not hinder the Greek court to examine their jurisdiction. For the above reasons, the English judgment may be incidentally recognized, which means that the Greek court is bound by its findings on the international jurisdiction issue. Finally, it should be underlined that no reference to the *Gothaer* ruling of the CJEU was made by the Piraeus court.

Clarifications

Finally, the Piraeus court explained the reasons which led to a different outcome from that of the judgment issued by the same court a year ago. First of all, the court was not bound by the *res iudicata* of the 2019 judgment, because the defendants were not the same. Secondly, the 2019 judgment examined an application for the enforcement of the English orders, whereas in the present case the subject matter was the existence or non-existence of the choice of court clause.

For all the above reasons, the appeal was dismissed.

SHORT COMMENT

Following the case law of the CJEU on anti-suit injunctions, and the non-recognition of the orders, which were labelled by the 2019 judgment as ‘quasi’ anti-suit injunctions, the defendants used the seemingly sole remaining tool for avoiding a re-examination of international jurisdiction on the merits by the Greek courts; the outcome proves them right. The question however remains the same: Are declaratory orders stating that English courts have exclusive jurisdiction and that proceedings in other Member States are in breach of an English exclusive jurisdiction agreement in line with the mutual trust principle? In his thesis [pp. 146 et seq.], Mukarrum Ahmed argues that those orders are at odds with the above principle.

The Greek Supreme will have the final word.

Of course, a preliminary request remains a possibility.

Hague Academy of International Law: Deadline to apply for the 2021 Centre for Studies and

Research (postponement of the 2020 edition) until September 1st, 2020

The Hague Academy of International Law announces the extension of the deadline to apply for the 2021 Centre for Studies and Research (postponement of the 2020 edition) until **September 1st, 2020** (GMT+1). The programme will take place between **August 16th and September 3rd, 2021** and will focus on the topic of “Applicable Law Issues in International Arbitration”.

The Directors of Research, **Prof. Giuditta Cordero-Moss** (University of Oslo) and **Prof. Diego Fernández Arroyo** (Sciences Po, Paris), invite applications from researchers including students in the final phase of their doctoral studies, holders of advanced degrees in law, political science, or other related disciplines, early-stage professors and legal practitioners. Applicants should identify the specific topic on which they intend to write. Participants will be selected during the fall of 2020, and will convene at The Hague during the programme period to finalize their papers. The best articles will be included in a book to be published in the fall of 2022.

All applicants are required to register online via the appropriate registration form. For more information about the programmes of The Hague Academy of International Law, please consult the website: <https://www.hagueacademy.nl/>.

Given the extremely positive feed-back of so many participants of earlier events of this type, participation is highly recommended to the global PIL community.

Saint Petersburg State University:

Call for papers on Recognition and enforcement of foreign judgments: Problems and prospects

By **Andrey E. Zuev**, Saint Petersburg

The modern period of the development of civilization is known to increasingly impart the character of imperativeness to the principle of cooperation between states, transforming its initially basically declarative formula of relations between states into an imperative content, fixed as obligations of the states to ensure the right to a fair hearing not only at the level of formal access to justice, but also at the level of enforcement of judgments as the highest manifestation of justice in the state organization of social management.

The emerging tendency to move from the mainly impersonated forms of doing business, mediated by the concept of legal person and based on governmental mechanisms, on the one hand, to individual responsibility, on the other hand, reflects the achievement of a new level of opportunities for self-realization of a person, which, thanks to the development of the institution of intellectual property and other legal mechanisms of individualization of the surrounding world, is becoming increasingly apparent the creator in the world of tangible and intangible assets, at the same time accepting the responsibility for her or his own actions and their consequences, both in business and in personal matters.

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS IN CIVIL OR COMMERCIAL MATTERS, concluded at a diplomatic conference in The Hague on July 2, 2019 as part of the Hague Conference of Private International Law, became one of the new forms of translating the principle of cooperation between states into their specific legal obligations with respect to each person, creating a new platform for the development of the institution of recognition of foreign court decisions, both multilaterally and bilaterally.

The need of the international Community in this Convention, is directly related to the development and complication of international relations and business projects, to such an extent that the existing international treaties are explicitly

foreseen by some states as insufficiently reliable to achieve legal certainty and justice in the sphere of the access to justice, and especially at the stage of recognition and enforcement of foreign state courts judgments.

This is expressed, *inter alia*, in the fact that even having in place the system of international commercial arbitration, which uses the system of arbitration courts that has been tested for centuries, this system being based on the formation of the judiciary, appointed by the parties to the dispute and / or in accordance with the rules chosen by the parties, to resolve the dispute, the states are faced with the need to respond to the apparent lack of protection, independence, and competence of the arbitrators. This gives rise to arbitration decisions that do not meet the requirements of legal justice in the eyes of the state courts, designed to decide about the possibility of recognition and enforcement within their jurisdiction of foreign commercial arbitration awards, on the grounds of international treaties, and their own constitutional rules of national legal order.

State justice, based on the principle of *jura novit curia* and having three main stages of verifying the compliance of a court ruling with the law in the broad sense, is opposed in the legal field by arbitration awards, whose authors are not required to know the law like the state courts, and, as a rule, do not bear the risks of their awards' cancellation for this motive.

At the same time, the consequences of arbitral awards can have such a significance for society that a state which acts on behalf of the whole nation and in its interests cannot allow the risks associated with insufficient protection and / or insufficient competence of arbitrators in the international commercial disputes. In this regard, we are witnessing the emergence of a significant number of specially created state courts, whose activities are specifically aimed at considering disputes of international nature, and the judgments of which will also require recognition and enforcement on the territory of foreign states.

As we know, there are legal orders that authorize their courts to recognize and enforce foreign judicial decisions in their territory, in the absence of a relevant international treaty, and other legal orders that do not authorize their courts to make judgments on the recognition and enforcement of foreign judicial decisions in the absence of an international treaty. The emerging paradoxical situation leads to an imbalance in the relations between states.

This imbalance can sometimes be overcome by the practice of courts based on the principle of cooperation between states, as well as on international courtesy and reciprocity. At the same time, the international relations are now acquiring such quality and quantity that the international community is looking for ways to universalize relations in this area, in order to ensure access to justice at all stages.

The creation of state based international commercial courts for international disputes, the adoption of the Hague Convention on the recognition and enforcement of foreign judgments in civil and commercial matters in 2019, as well as the Hague Convention 2005 on the Agreement on the selection of courts, all that reflects the newest stage in the development of private international law and procedure, which requires international brainstorming sessions, an understanding of the capabilities of each legal system in ensuring the accessibility and urgency of justice as an obligation of states, coming from the principle of cooperation enshrined in the UN Charter and binding all the states of the planet Earth.

In this regard, the Journal of «*Pravovedenie*» (Jurisprudence) opens a call for papers for the articles in a special issue of the journal dedicated to the cooperation of states, in ensuring access to justice at the stage of recognition and enforcement of decisions of foreign state courts on its territory.

For these reasons, we would respectfully like to invite authors to contribute to this issue of the Journal, and offer their articles on these issues of private international law and process.

Articles are to be written in English or in Russian, and may be of length from 0.75 to 2 copyright sheets (author sheet is a unit of measurement of 40,000 characters, including spaces)). The articles are to be uploaded to the journal website at:

<https://pravovedenie.spbu.ru/about/submissions>

When editing your article, please follow our style guide, available on our website.

We need to receive your article no later than May 1, 2021.

Articles are subject to review in accordance with the rules of the Journal.

We shall be very thankful if you let us know in advance of your plans to participate in the issue, as we have to plan the volume of the printing.

Please send in anticipation a message about your intention to submit an article for this special issue of the journal to the following email address: pravovedenie@spbu.ru

Guest Editors

Gabriele Crespi Reghizzi, Doctor of Laws,

Full Professor of the Civil Law Department at Saint Petersburg State University;

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Andrey E. Zuev, Attorney-at-law, Contracted Professor of the Department of International law at Saint Petersburg State University, Member of the Russian Association of International law

Further information here.

For those who are interested in the HCCH 2019 Judgments Convention see also the HCCH/Bonn University Conference on 25 and 26 September 2020.