



Hague Judgments Convention: Entry into Force on 1 September 2023

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The Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters (Judgments Convention) had been open for signature since 2019. Now that it has been ratified by two contracting parties, it will enter into force in one year' time.

On 29 August 2022, the European Union deposited its instrument of accession to the Judgments Convention, becoming the first party to the convention. Shortly thereafter, Ukraine deposited its instrument of ratification of the Judgments Convention. With the EU's accession and Ukraine's ratification, the Judgments Convention now has two contracting parties and will enter into force on 1 September 2023, just over four years after its adoption on 2 July 2019. The EU's accession will bind all EU member states, with the (usual) exception of Denmark.

As of today, in addition to the EU and Ukraine, five other states, namely Costa Rica, Israel, the Russian Federation, the U.S. and Uruguay, have signed but not yet ratified the Judgments Convention.

Implementing Legislation at Member State Level?

Rather than individual EU member states, the EU is a contracting party to the Judgments Convention. This notwithstanding, it appears that implementing legislation for the Judgments Convention is not envisaged at the EU level. The Federal Ministry of Justice has already drafted a German law implementing it, which has been reviewed by the Max Planck Institutes in Luxembourg and Hamburg (see here). The institutes' main criticism of this draft is not directed at the Ministry of Justice, but at the EU for not adopting uniform implementing provisions:

“Since the EU will accede to the Judgments Convention as a contracting party, the implementing provisions for its member states should also be uniform to the greatest possible extent. Recognition and enforcement of foreign judgments will not be as significantly simplified as intended, if member states adopt numerous individual rules implementing the Judgments Convention.”

It remains to be seen whether a change of mind towards a regulation that is as uniform as possible within the EU can be brought about before 1 September 2023.

Practical Significance of the Judgments Convention

As long as no other states outside the EU accede to the Judgments Convention, the practical benefits as of 1 September 2023 will be limited to the EU member states' relationship with Ukraine and will thus be fairly narrow. However, EU accession could have a pull effect for some states.

The big “game changer” in international legal relations that many are hoping for would be the accession of the United

States. The United States signed the Judgments Convention in March 2021, but has not yet ratified it. In the U.S., the recognition of foreign judgments essentially is a matter for the individual states, not the Federal government. This raises difficult domestic implementation issues that have not yet been resolved for either the Judgments Convention or the Hague Convention on Choice of Court Agreements (COCA), which the United States signed back in 2009 ([see here](#)).

In case you were a bit startled to see Russia among the signatories of the Judgments Convention: States cannot “force” other member states to recognize and enforce their judgments simply by acceding to the Judgments Convention. Under Article 29 (2) of the Judgments Convention, any member state may declare “that the ratification, acceptance, approval or accession of another State shall not have the effect of establishing relations between the two states pursuant to this Convention.” The EU thus controls which states fall under the regime of the Judgments Convention. This article was first published on [disputesresolutiongermany.com](https://www.disputesresolutiongermany.com).

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