

Recognition and Enforcement of Foreign Court Decisions according to the Hague Convention on Choice of Court Agreements and the Hague Judgement Convention

Abstract

This thesis addresses the issue of recognition and enforcement of foreign court decisions in civil and commercial matters, analyzing the legal framework established by the 2005 Hague Convention on Choice of Court Agreements and the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. Together, these conventions aim to create a unified legal framework for cross-border recognition and enforcement of judgments among contracting states, thereby contributing to the global unification of this field. The thesis provides a comprehensive view of the relationship between the two conventions, whose complexity arises from the different nature of these instruments. The first convention addresses direct jurisdictional rules, specifically exclusive choice of court agreements and the recognition and enforcement of judgments. The second convention does not address court jurisdiction but instead focuses solely on the eligibility of judgments for recognition and enforcement based on so-called indirect jurisdictional rules. Further analysis reveals that many questions remain unresolved by these conventions, leaving interpretation to individual courts, which may, to some extent, undermine the legal certainty of applicants seeking recognition and enforcement of judgments. The thesis also examines the scope of subject-matter jurisdiction of the conventions, which is not always consistent between them. Due to the relatively extensive list of excluded matters, the practical applicability of the conventions may be significantly limited. This provides states with protection against unwanted cross-border effects of judgments in areas of special interest to them. On the other hand, however, this limitation may weaken the primary objective of these conventions, which is to facilitate cross-border recognition and enforcement of judgments. The thesis also offers a critical perspective on the declaration mechanism, by which contracting states can adapt the conventions to their specific needs. Although the literature highlights potential risks associated with this mechanism, concerns related to it do not yet appear to be entirely justified.

Key words: Recognition and Enforcement of Foreign Court Decisions, Hague Convention on Choice of Court Agreements, Hague Judgement Convention