



Strengthening cross-border legal cooperation: the UK's ratification of the 2019 Hague Convention

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On 27 June 2024, the UK formally ratified the Hague Convention of 2 July 2019 on **the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters** (the **2019 Hague Convention**). This is one of the most significant steps towards fluid cross-border enforcement since the UK withdrew from the European Union (EU) on 31 January 2020.

What was the impact of Brexit on recognising and enforcing judgments set in the UK?

Before Brexit, the 2012 Brussels Recast Regulation regulated the recognition and enforcement of judgments between EU Member States. During the post-Brexit transition period, the 2007 Lugano Convention (the **Lugano Convention**) applied to the UK which was specific to judgments laid down in Iceland, Norway and Switzerland. Both regimes ceased to apply once the UK withdrew from the EU.

The gap left in this area was partially filled when the UK joined the earlier 2005 Hague Convention. However, the 2005 Hague Convention was more limited in scope than the 2019 Hague Convention. The application of the earlier convention was dependent on when the relevant jurisdiction clause was entered. The position in respect of cross-border litigation was limited and uncertain for countries within the EU.

What is the 2019 Hague Convention?

The 2019 Hague Convention has become an important tool for recognising and enforcing judgments among contracting parties since it officially entered into force on 1 September 2023. There are currently 29 contracting parties.

The 2019 Hague Convention allows a contracting party to enforce a judgment given by a court of

another contracting party provided that one of the requirements set out under Article 5 of the 2019 Hague Convention are met. The following are some of those requirements:

- if the person against whom recognition or enforcement is sought was habitually resident in the state of origin at the time that person became a party to the proceedings in the court of origin
- if the natural person had their principal place of business in the state of origin at the time that person became a party to the proceedings in the court of origin
- if the person against whom recognition or enforcement is sought is the person that brought the claim, other than a counterclaim, on which the judgment is based
- if the defendant consented to the jurisdiction of the court of origin in the course of the proceedings in which judgment was given
- if the judgment ruled on a lease of immovable property and was given by a court of the state in which the property is situated

In accordance with Article 7 of the 2019 Hague Convention, the grounds for refusal of recognition and enforcement include:

- if the document which instituted the proceedings was not notified to the defendant in sufficient time or was notified in a manner incompatible with the principles of the requested jurisdiction
- if the judgment was obtained by fraud
- if the recognition or enforcement would be incompatible with public policy

The 2019 Hague Convention does not extend to matters involving customs, revenue or administrative issues. Furthermore, unlike the Lugano Convention, the EU cannot block the UK's ratification of the 2019 Hague Convention as it is an international treaty.

Why is this an important step for the UK?

The 2019 Hague Convention will be implemented into UK domestic law pursuant to the powers provided in the Private International Law (Implementation of Agreements) Act 2020. It will enter into force on 1 July 2025 and will cover the jurisdictions of England, Wales, Scotland and Northern Ireland.

As the 2019 Hague Convention recognises judgments in civil or commercial matters, its entry into force is an important step for litigants to ensure greater predictability and certainty when involved in cross-country litigation with the UK. It will also serve to reduce the complexity and costs associated with enforcing foreign judgments in the UK.

Furthermore, it is viewed as a positive development for businesses and consumers that will

encourage trade and investment. It will benefit those who live and work between the UK and other contracting parties, giving them one set of uniform legal rules.

Overall, the ratification of the 2019 Hague Convention should provide a framework for future cooperation between the UK and other countries, particularly in the EU following the gap left post-Brexit.

How can Ogier help?

For any further information, please reach out to our experienced Dispute Resolution team in Ireland using the contact details provided below.

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