

Consultation concerning Hague 2019 and Hague 2005
Civil Procedure Rule Amendments:
Proposed amendments to CPR Part 74, and Practice Direction 74A

This Consultation

Your views are being sought on the proposed draft amendments to Civil Procedure Rules (CPR) Part 74 and PD 74A (attached) arising from the CPR Committee’s consideration of the implementing framework to facilitate the operation of the Hague Convention 2019 (on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters) and Hague Convention 2005 (on Choice of Court Agreements).

How to respond

Please send any responses (in Word or PDF form) to the following email address with the words “CPRC Hague consultation” in the subject line of your email:

PIL@justice.gov.uk

Deadline for responses

The deadline for responses is 13 March 2024.

Questions

If you have any questions regarding this consultation, please email PIL@justice.gov.uk

Hague 2019

General Overview

1. On 12 January 2024, the UK Government signed the Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Hague 2019).¹ Hague 2019 is a multilateral Convention which establishes common rules to facilitate the recognition and enforcement of foreign judgments in civil and commercial matters between Contracting Parties to the Convention. The decision to sign followed public consultation.²
2. The UK Government will ratify the 2019 Convention once the necessary implementing framework is in place to facilitate the operation of the Convention in the UK. Later this year, a statutory instrument (SI) will be laid in the UK Parliament to amend the Civil Jurisdiction and Judgments Act 1982 (the 1982 Act). The **proposed draft amendments to Part 74 of the Civil Procedure Rules (CPR) and Practice Direction 74A** (see attached) are intended to facilitate the implementation of the Hague 2019 Convention in England and Wales.

¹ Hague 2019 Convention Text: [HCCH | #41 - Full text](#)

² MoJ’s 2023 consultation response on joining Hague 2019: [The Hague Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters \(Hague 2019\) - Response to consultation \(publishing.service.gov.uk\)](#)

3. Since the CPR and PD amendments will link to the 1982 Act amendments, we describe below certain key implementing measures that will be inserted into the 1982 Act.³

Registration

4. The Government has decided to implement Hague 2019 using a registration model for the purposes of recognising and enforcing judgments from other Contracting States.
5. The process for registration is intended to be as straightforward as possible and broadly consistent with the registration models for existing regimes in force UK wide for the recognition and enforcement of foreign judgments (for example Hague 2005).
6. We propose to amend the 1982 Act to include a new (section 4C), which will provide the requirement for judgments to be registered in order to be recognised and enforced under Hague 2019.
7. Applications for registration of judgments under Hague 2019 will be made to the High Court. The registration stage will be non-contentious in that the respondent to the registration application will not have the opportunity at that stage to make submissions (the opportunity for challenge will be after registration, but before enforcement – see below). The registering court will therefore decide based on limited information whether the requirements for recognition and enforcement under the Convention have been met. This would include the condition at article 4(3) for recognition of the judgment that it has effect in the state of origin (or for enforcement that it is enforceable there); the requirement that the judgment meets one of the bases of indirect jurisdiction in either article 5 or 6; and other requirements of the Convention such as the scope provisions of articles 1 and 2 or the fact that the definition of ‘judgment’ in Article 3 excludes interim measures of protection.] At this stage, the court would not consider the discretionary grounds to refuse recognition and enforcement or grounds to permit postponement under the Convention.

Applications to set aside a registration decision

8. Under Hague 2019 there are a number of requirements that need to be satisfied to permit the recognition and enforcement of a judgment, and various discretionary grounds for refusal or postponement of recognition and enforcement. These requirements for, or grounds for refusal or postponement of,

³ [Civil Jurisdiction and Judgments Act 1982 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1982/21)

recognition and enforcement could require considerable evidence or counterargument in some cases.

9. Rather than create a fully contentious proceeding at the registration stage for all cases, our intention is to amend the 1982 Act to include a new section 6C which will provide a right for either party to apply to challenge the registration decision before that decision is enforced. This is the approach conventionally taken to recognition and enforcement of foreign judgments. We intend that the challenge route will be by way of set aside (rather than appeal), which is also the conventional approach taken in domestic law where a court has arrived at a judgment without contentious argument.

Recognition and enforcement of UK judgments in other Contracting States

10. Section 12 of the 1982 Act provides that rules of court may make provision for enabling any interested party wishing to secure, under Hague 2005, the recognition or enforcement of a judgment made in a UK court in another Contracting State to obtain necessary documents.
11. The regulations to be made under the Private International Law (Implementation of International Agreements) Act 2020) will amend this section of the 1982 Act to extend it to apply to the 2019 Hague Convention.

Hague 2005

12. The Hague Convention of 30 June 2005 on Choice of Court Agreements (Hague 2005)⁴ contains, amongst other things, rules facilitating the recognition and enforcement of judgments made across borders in Contracting States, where the judgment is made by a court chosen in an exclusive choice of court agreement in their contract. The UK has been a Contracting Party to Hague 2005 since 2015.
13. For consistency, it is the UK Government's intention to amend some of the implementing provisions for Hague 2005 in the 1982 Act, to align with the approach taken for Hague 2019. This includes amending the route of challenge for decisions on Hague 2005 registrations from a right to appeal to a right to apply to set aside. This results in a small number of amendments to the Civil Procedure Rules.

Proposed CPR amendments

⁴ Hague 2005 Convention text: [HCCH | #37 - Full text](#)

Comments are invited on the attached proposed draft amendments to CPR Part 74 and Practice Direction 74A (shown in tracked change format). The draft amendments were agreed in principle, subject to consultation and final drafting, by the Civil Procedure Rule Committee on 2 February 2024.

Next Steps

The matter will be programmed in for CPRC consideration following the conclusion of this consultation. You can follow progress by reading the [minutes of CPRC meetings](#).

Data

Data will be handled in line with the CPRC Personal Data Privacy Notice found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707892/cprc-privacy-notice-may-2018.pdf

Ministry of Justice
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