



**DIRECTORATE GENERAL FOR INTERNAL POLICIES**

**POLICY DEPARTMENT**  
**CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS**



## ***LEGAL AFFAIRS***

**THE HAGUE CONFERENCE ON  
PRIVATE INTERNATIONAL LAW  
“JUDGMENTS CONVENTION”**

# Introduction

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- Presentation of the study
- EU: state of play regarding recognition and enforcement of judgments
- The Hague “Judgments Project”
- Structure of the presentation

# The 2007 Draft Convention: scope

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- Limited to the recognition and enforcement of judgments
  - No direct jurisdiction rules
- Territorial scope of application
  - Limited to judgments rendered in Contracting States
  - EU participation

## Substantive scope

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- Civil and commercial matters
- Exclusions: status and legal capacity, maintenance, family matters, succession, insolvency, carriage, marine pollution, nuclear damage, validity legal persons, public registries, arbitration
- Defamation
- Privacy / Intellectual Property?

## **Scope: EU implications**

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- In search of a comprehensive legal framework on the recognition and enforcement of third country judgments
- The limited scope and uncertain success of the Draft Convention undermines its potential to provide such a framework
- Additional layer of complexity

## **Draft Convention: main content**

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- Eligibility requirements for judgments to be recognised or enforced
- Grounds for non-recognition refuse recognition
- Does not prevent the application of national law if it is more favourable

# Relationship with other international instruments

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- Conflict prevention
  - Exclusions from scope
  - Interplay with the Choice of Court Convention
- Conflict management:
  - Favor recognitionis
  - Non-affect clause: Lugano Convention
  - Disconnection clause: rules of a Regional Economic Integration Organisation (Brussels I bis Regulation)

# Interaction with the Brussels I bis Regulation

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- In general EU exclusive jurisdiction rules are not undermined by the Draft
- The indirect jurisdictional rules of the Draft mirror with some exceptions the jurisdiction rules of Brussels Ibis
- Rules on consumers
- Clarifications needed



# Future Impact of the Convention

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- Enforcement is needed over assets situated abroad
  - Not from the defendant's home court
- The most significant rules concern
  - Torts committed abroad
  - Contracts performed abroad

# Future Impact of the Convention

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- US law is conservative
  - Connection between the defendant and the foreign state in tort/contract cases
- The Convention mirrors US law
  - Narrow grounds for tort/contract cases

## Future Impact of the Convention

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- The law of many MSs is more liberal than the Convention
  - Tort/contract cases
- These MSs will apply their more favourable national rules
- US-EU relations: essentially no change

# Future Impact of the Convention

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- Some States are very conservative
  - Jurisdiction of the foreign court (UK, Sg, Au)
  - Review on the merits (India)
  - Complete refusal
- Everybody will benefit *if* they join the Convention
  - Even a Convention mirroring US law

## Future Impact of the Convention

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- Some States have a reciprocity requirement (China, Japan)
  - They will only apply the Convention
- Yet, they might be ready to adopt a more ambitious Convention
  - Evidence from China bilateral treaties

# Future Impact of the Convention

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- Is it wise to prioritise the US?
  - This will lead to an unambitious Convention
  - The US might never ratify it anyway
- Is a more ambitious Convention accessible?
  - Following EU standards of jurisdiction
  - Including Asian states, in particular

**Full version of the Study is  
available at the following link:**

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[http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2018\)604954](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2018)604954)

# Authors:

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**Pedro DE MIGUEL ASENSIO**

Complutense University of Madrid

**Gilles CUNIBERTI**

University of Luxembourg

**Pietro FRANZINA**

University of Ferrara

**Christian HEINZE**

University of Hannover

**Marta REQUEJO ISIDRO**

Max Planck Institute Luxembourg