

2nd Study Commission questionnaire – 1980

1. According to your legal system, can a foreign judgment be effective without the need for any procedural formalities?
2. Can the foreign judgment be used as evidence to be assessed by your judges?
3. Does the law of your country allow the recognition and enforcement of foreign judgments?
 - a) must the judgment have become res judicata in the State of origin and be enforceable in that State?
 - b) how does your law regard jurisdiction in the State of origin and respect for the formal rules of adversarial proceedings in foreign proceedings, especially in the case of a default judgment?
4. Can recognition or enforcement be refused for the sole reason that the court applied a law other than the one that would have been applicable under the rules of private international law in your country?
5. Does your law necessarily reserve jurisdiction over certain matters to the courts themselves?
6. Are there any differences in treatment depending on the nationality of the defendant in the proceedings which took place abroad?
7. Does your legal system require a review of the merits?
If so, can your national court change the foreign provision?
8. Can recognition and enforcement be refused in cases of:
 - a) lack of reciprocity
 - b) conflict with public policy and good morals?
 - c) conflict with a national judgment?
 - d) lis pendens before a national court?
 - e) fraud, deceit without the foreign proceedings?
9. On the basis of an unenforced foreign judgment, can protective measures be taken or authorisation to take protective measures be obtained in your country?
Is it possible to obtain authorisation from your Tribunals on the basis of proceedings pending abroad?
10. Are there any special rules for the recognition and enforcement of foreign judgments in family law matters, particularly as regards measures for child custody, visiting rights and the payment of maintenance?
11. Is it possible to have emergency measures ordered by a foreign judge in the course of family law proceedings enforced directly in your country?
If not, do you think it would be advisable to adopt a similar rule, either in the form of a multilateral convention or a model law, to be recommended to the various States?