

Enforceability of final judgments in international conflicts *other than money judgments*
(According to L. Garb's and J. Lew's Enforcement of Foreign Judgments)

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I. United States (Lloyd E. Shefsky in Garb and Lew)

a. The United States has both a federal court system and a state court system. The same law and regulations for the enforcement of foreign judgments do not apply in all of the states. Foreign judgments can be recognized and enforced in the federal court system as well as in the state court system. Twenty-one states have adopted the Uniform Recognition Act. To proceed in federal court, there must be federal jurisdiction over the subject matter of the suit and there must be 'diversity of citizenship'. This means that the matter before the court must be between citizens of different states, or between citizens of a state and citizens or subjects of a foreign country.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Specific performance is an enforceable judgment under the Uniform Recognition Act.

2. *Injunctions*

Injunctions are enforceable judgements under the Uniform Recognition Act.

3. *Award for multiple/punitive damages*

Punitive damage awards are enforceable under the Uniform Recognition Act.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Judgements recognizing a previous foreign judgment are not enforceable.

5. *Judgments against the State or any of its organs*

Judgements against the State are not enforceable.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

Under the Uniform Recognition Act a local court will not enforce foreign judgments which are not conclusive i.e. if

- The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with requirements of due process of law
- The foreign court did not have personal jurisdiction over the defendant
- The foreign court did not have jurisdiction over the subject matter

II. England and Wales (S. Philippsohn in Garb and Lew)

- a. Within England and Wales, which comprise a single jurisdiction, the enforcement of foreign judgments is governed by:
- common law rules;
 - the AJA (Administration of Justice Act 1920): broadly speaking applies to former British colonies and various members of the Commonwealth of Nations;
 - the FJREA (Foreign Judgments Reciprocal Enforcement Act 1933) broadly speaking relates to certain Commonwealth and European nations
 - the CJJA (Civil Jurisdiction and Judgments Act 1982) broadly speaking applies to contracting states within the Brussels and Lugano Convention.

a. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

There are no authorities on the point of specific performance, but any foreign judgments for such relief would be persuasive insofar as the English courts are concerned in any application for a similar type of relief.

2. *Injunctions*

There are no authorities on the point of injunctions, but any foreign judgments for such relief would be persuasive insofar as the English courts are concerned in any application for a similar type of relief.

3. *Award for multiple/punitive damages*

Such an award - not a penalty or a fine - is enforceable.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Such a judgment is enforceable.

5. *Judgments against the State or any of its organs*

Judgements against the State may be enforceable.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

There are no final judgments which would not be enforceable. However, there may be foreign laws specified by the Secretary of Trade as being a restraint of international trade, e.g. certain US antitrust laws. Judgements in respect of income taxes or customs duties would not be enforceable.

III. Germany (H. Rasner in Garb and Lew)

- a. Germany has a federal system. The law of enforcement of foreign judgments is federal law and is therefore applicable in every German State. Bilateral or multilateral treaties take

precedence over federal law, except when federal law is more favourable to the party seeking enforcement.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Judgments for specific performance are enforceable.

2. *Injunctions*

Injunctions are enforceable.

3. *Award for multiple/punitive damages*

Civil judgments for damages are generally enforceable as long as only the existing damages are compensated. A judgment granting a lump sum indemnity in addition to material and immaterial damages may not be enforceable to the extent of the indemnity. Excessive damages awards not limited to possible future damages or other damages that are difficult to detect may not be enforceable either.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Foreign judgments declaring a judgment of a court in a third country to be enforceable are not enforceable in Germany.

5. *Judgments against the State or any of its organs*

Judgments against a sovereign State or its authorities are not enforceable if the foreign court went beyond its jurisdiction, e.g. if the sovereign immunity was not respected by the foreign court. This rule applies to judgments both against any foreign sovereign State and against the Federal Republic of Germany and the several states in Germany. In the event of an enforcement with respect to debts of the German government, the creditor must, however, give notice of the enforcement in advance and wait four weeks. Sovereign immunity of any State will be respected in the enforcement proceedings.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

Damages awarded in proceedings comparable to the German so-called 'Adhesive Procedure' i.e. criminal proceedings dealing with civil damage claims resulting from the criminal offence, are enforceable, however only to the extent their amount does not exceed the limits set by the standards of public policy.

IV. France (O.G. Binder in Garb and Lew, supplemented with B. Audip, Droit international privé 1997)

a. France has a uniform system of law and regulations. The procedure of 'exequatur' which realises the enforcement of foreign judgments applies all over the country. Recognition of foreign judgments exists without specific procedure. The matter is regulated by very few internal rules, which are completed by the decisions of courts and/or the international conventions.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

These judgments are enforceable.

2. *Injunctions*

Injunctions are enforceable.

3. *Award for multiple/punitive damages*

These awards are in principle enforceable. However it must be pointed out that the French courts may consider these damages excessive. In these cases, the award will be considered contrary to French public order and will not be recognised and consequently, the request for enforcement will be refused.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Foreign judgments declaring a judgment of a court in a third country to be enforceable, are not enforceable: *exequatur sur exequatur ne vaut*.

5. *Judgments against the State or any of its organs*

Judgments against the French State or any of its bodies, if the State is involved in a civil suit, are enforceable.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

All judgments are enforceable unless they deny the exclusive jurisdiction of French courts or clash with a prior French decision. They should fulfil several conditions:

- The foreign judge must have proper jurisdiction;
- The decision must apply the law designed by the French conflict of law rules, or at least it must have an 'equivalent' result to the decision which would have been rendered under this system;
- It must not be contrary to international public policy;
- The decision must not be obtained by fraud.

V. Italy (T. Tampieri in Garb and Lew)

a. Italy does not have a federal system. Law and regulations for the enforcement of foreign judgments apply in the whole country.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Specific performance judgments are enforceable.

2. *Injunctions*

As regards common law 'injunctions', they could be enforced in the Italian system only if they are not preliminary injunctions and only when they impose an obligation to do or not to do, which is also recognised by the Italian system.

3. *Award for multiple/punitive damages*

Multiple/punitive damages or merely punitive damages (i.e. non-compensatory) are not recognised by the Italian system. It is of the essence an evaluation, on a case-by-case basis, whether or not the foreign judgment is against public policy.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Concerning judgments recognising a previous foreign judgment, probably due to the fact that it would be much simpler to have the precious foreign judgment directly recognised in Italy, there is no case law on the subject. However, it must be pointed out that the general principles, which must be met for a foreign judgment to be recognised in Italy lead to a negative answer.

5. *Judgments against the State or any of its organs*

Judgments against the State or its bodies are enforceable only if the State in the relationship, which is the object of the foreign judgment, was acting as a private citizen (*acta iure gestionis*).

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

In principle, to be enforceable, all foreign judgments should be evaluated in the light of the aspects: (i) concern the ascertainment, creation, modification or the extinction of a right, a power or a personal status disputed between the parties; (ii) conclude the proceedings before the foreign authority (iii) have been rendered in a matter that would have been decided in Italy by the ordinary judge.

VI. Argentina (A.D.Q. Molinario and A.P. Radzynski in Garb and Lew)

a. The Argentine Constitution has a republican, federal and representative political structure. Argentina is divided into twenty-three provinces and a federal district: the City of Buenos Aires. Among the powers retained by the provinces, each province is entitled to enact its procedural rules. Under Argentine law, recognition of foreign judgments is dealt with as a procedural matter and thus subject to the procedural rules in force in the City of Buenos Aires or in the province where recognition is sought. Furthermore, to the extent that federal courts sit both in the City of Buenos Aires and in the territory of the provinces, whenever recognition of a foreign judgment is sought in a federal court sitting in the territory of an Argentine province, the procedure for recognition shall be subject to the federal procedure rules and not to the provincial procedural rules.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Specific performance judgments are in principle enforceable in Argentina. Furthermore, if the party against whom enforcement is sought refuses to comply with the terms of the judgment local courts may, at the plaintiff's request, impose certain penalties upon the defendant. If however the defendant does not fulfil its obligations under the judgment, the plaintiff is entitled to request payment of money as substitution for specific performance.

2. *Injunctions*

Injunctions are in principle enforceable in Argentina.

3. *Award for multiple/punitive damages*

Awards and judgments for multiple or punitive damages are enforceable.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

A decision of the Civil Court of Appeals of Buenos Aires has admitted the possibility of recognition of a judgment, which is in itself a recognition of a previous foreign judgment. This trend, that seems to contradict a basic principle on this matter according to which *exequatur sur exequatur ne valet*, has not remained free from criticism.

5. *Judgments against the State or any of its organs*
Judgments against the Argentine Government – in particular judgments for payment of money – rendered by a court sitting outside Argentina are enforceable in Argentina. However, enforcement of a judgment against the Argentine Government is subject to substantial impediments. One such impediment is that judgments against Argentina are not immediately enforceable. Argentine law provides that all amounts due under judgments against the Argentine Government are to be included in the next succeeding national budget to be submitted to the Argentine Legislature after the judgment was rendered, and following approval of such budget by the Legislature, the amount due will be made available to judgement creditors.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

Apart from judgments which violate the principles of Argentine public policy, foreign judgments which resulted from *in rem* actions with respect to immovable property located in the territory of Argentina at the time of the institution of the foreign action are not enforceable in Argentina.

VII. *Brazil (A.C. Rodriguez Casella in Garb and Lew)*

a. Brazil is a federative republic, divided into 26 states and one Federal District. Brasilia is both the capital of the country and the Federal District. Under Brazilian law, enforcement of foreign judgements is a procedural matter and thus subject to the rules of the Civil Procedure Code and subject to uniform application in all states. The Federal Supreme Court, located in Brasilia, is the only court having jurisdiction for enforcement of foreign judgments in Brazil.

b. *Categories of judgments other than money judgments and their enforceability*

1. *Specific performance*

Specific performance judgments are enforceable in Brazil. Furthermore, under certain circumstances, if the party against whom enforcement is sought refuses to comply with the term of the judgment, Brazilian courts may, at the plaintiff's request, impose certain penalties upon the defendant and/or ensure that enforcement is judicially carried out. If, however, the defendant does not fulfil its obligations under the judgment, the plaintiff is entitled to request payment of money as substitution for specific performance.

2. *Injunctions*

Foreign injunctions are not enforceable in Brazil unless final.

3. *Award for multiple/punitive damages*

Judgments for multiple or punitive damages are enforceable.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Such a judgment is not enforceable.

5. *Judgments against the State or any of its organs*

According to section 104 of the Brazilian Constitution, only the Federal Supreme Court has jurisdiction in cases involving the Brazilian State or any of its entities. The principle of immunity of jurisdiction does not apply whenever there is a formal waiver. Thus, an exception to the immunity principle refers to the foreign debt agreements entered by Brazil through the

National Treasury, whereby English or US (state of New York) law was adopted as applicable law. The sovereignty immunity was waived. This would have effect only towards the enforcement at an English or US (state of New York) court. There has never been a case of enforcement of any such agreement before Brazilian courts.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

Judgments contrary to public policy, good morals, Brazilian law and sovereignty are not enforceable in Brazil. Fiscal judgments, if final, are enforceable.

VIII. Mexico (M. Berkman Margolis in Garb and Lew)

a. The United Mexican States (Mexico) are a federal republic. The rules and proceedings applicable to the enforcement of foreign judgments are established in the Mexican Federal Code of Civil Procedure (the 'Federal Code'). Therefore the same law applies for the enforcement of foreign judgments in all 32 federative entities of the Republic of Mexico.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Specific performance is enforceable.

2. *Injunctions*

Injunctions are enforceable.

3. *Award for multiple/punitive damages*

An award for multiple/punitive damages is enforceable.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

These judgements are enforceable.

5. *Judgments against the State or any of its organs*

Actions against the State or any of its State bodies are enforceable, provided that no attachment of assets prior to or after enforcement may be ordered against the State or any of its bodies.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

Foreign judgments may be enforced in Mexico only if they comply with the following requirements and others specifically set forth in international treaties to which Mexico is a party:

- that they be accompanied by a rogatory letter from the foreign judge; the foreign judgment must be fully legalised by diplomatic or consular authorities, and must be translated into Spanish;
- that they have not been issued or based as a consequence of an action *in rem*;
- that the foreign court had jurisdiction over the matter according to internationally recognised rules and those set forth in the Federal Code;
- the defendant was personally served with notice of process;
- that the foreign judgment must be a final judgment (*res judicata*) in the country of origin;
- that the matter is not at the time being entertained in a Mexican court (*lis pendens*);

- that the obligation of which performance is requested by the foreign judgment, is not contrary to public order in Mexico;
- that the documents containing the foreign judgment are authentic;
- that the foreign judge or court will enforce judgments of Mexican courts as a matter of reciprocity.

A foreign judgment possibly may not be enforced in its entirety, but the court can recognise a partial enforcement of the judgement, if the plaintiff so requests.

IX. Hong Kong (P.M. Carey and F. Li in Garb and Lew)

a. Hong Kong is a territory which has been subject to British administrations from the nineteenth century till 1 July 1997, when her status has changed and she has become a special administrative region (SAR) under the 'one country, two systems' regime of the People's Republic of China. A result of the fact that Hong Kong has been a British territory is that her laws are inherited from those of England and Wales. In Hong Kong, enforcement of foreign judgments is governed by the Foreign Judgments (Reciprocal enforcement) Ordinance (FJREO), Judgement (Facilities for Enforcement) Ordinance (JFEO), Foreign Judgments (Restrictions on Recognition and Enforcement) Ordinance (FJRREO), as well as common law rules. Most of these ordinances are adopted from the English parliamentary acts, but there has been considerable divergence between the jurisprudence of Hong Kong and the United Kingdom in relation to enforcement of foreign judgements. The FJREO provides a simple and speedy registration mechanism for foreign judgments of fifteen countries. The JFEO provides the same in respect of final judgments of superior courts in England and Wales as well as those of courts in other Commonwealth territories and countries not covered by the FJREO. As most western countries are included in the FJREO, the application of the JFEO is restricted. It only applies to enforcement of the foreign judgments obtained from a limited number of Asian countries (Federation of Malaya, Sabah, Sarawak, and Sri Lanka). If enforcement pursuant to the FJREO or JFEO is not available, the judgment creditor of a foreign judgment may sue the judgment debtor on the judgment under rules of common law. An action under common law is basically the same as any action to recover a debt by way of a summary judgment. The last resort is to re-litigate the substantive cause of action in the local court. This is, however, not an enforcement procedure but a new action which is independent from the foreign judgment. Unless the contrary is stated, all the answers herein are applicable to the FJREO, JFEO and the common law.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Generally, an order for specific performance would be enforceable under the FJREO if it is obtained in civil proceedings of a foreign court. However, it is less clear whether an order for specific performance in civil proceedings of a Commonwealth court could be enforced through the application of the JFEO as the scope of the ordinance restricted to 'any judgment whereby any sum of money payable'. If an order for specific performance is granted in foreign criminal proceedings, it cannot be enforced in the local court. An order for specific performance cannot be enforced under common law.

2. *Injunctions*

Injunctions are enforceable in the local court. However, this is essentially an equitable remedy and so whether an injunction is enforceable is entirely a matter of discretion of the court.

3. *Award for multiple/punitive damages*

An order for payment of a penalty given by a foreign court is not enforceable in Hong Kong because the local court does not have the required jurisdiction to enforce foreign laws for foreign governments whilst an order for payment of damages to the successful party in foreign civil proceedings is enforceable in the local court.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

Such a judgment is enforceable in the local court.

5. *Judgments against the State or any of its organs*

A foreign judgment that has been given against Hong Kong government is enforceable in Hong Kong. It is, however, unusual for foreign courts to hold another government liable to pay damages. An order for specific performance cannot be enforced against the Hong Kong government.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

There are no other final judgments which would not be enforced in the local court. A fiscal judgment may, in theory, be enforceable in Hong Kong so long as it is for a liquidated sum and not of a punitive nature. However, since enforcement of a foreign fiscal judgment inevitably involves enforcement of foreign laws, for which the local court do not have jurisdiction, it is not common for foreign revenue offices to rely on the local courts to enforce such kind of judgment.

X. PR China (R.X.Y. Wang in Garb and Lew)

a. The People's Republic of China (excluding Taiwan, Hong Kong and Macao) has a uniform system of basic laws and regulations.

b. Categories of judgments other than money judgments and their enforceability

1. *Specific performance*

Specific performance judgments are enforceable.

2. *Injunctions*

Injunctions are not enforceable.

3. *Award for multiple/punitive damages*

These awards – if included in the judgment or combined with the judgment – would be enforceable.

4. *Judgment which is in itself a recognition of a previous foreign judgment*

These judgments are enforceable.

5. *Judgments against the State or any of its organs*

Judgments against the State are by no means enforceable.

6. *Any judgments which would not be enforceable apart from judgments which are against public policy*

There are no final judgments which would not be enforceable.

- XI. Japan (M. Yoshida and N. Taji in Garb and Lew)
- a. Japan does not have a Federal system. The same law and regulations for the enforcement of foreign judgments apply throughout the country.
 - b. Categories of judgments other than money judgments and their enforceability
 1. *Specific performance*
A specific performance judgment is enforceable.
 2. *Injunctions*
A permanent injunction is enforceable.
 3. *Award for multiple/punitive damages*
In June 1993, the Tokyo High Court denied recognition and enforcement of a portion of a California court's judgment requiring punitive damages. The High Court reasoned that an award which purely serves as a penalty, such as punitive damages, does not constitute a 'civil judgment' and contravenes the public order of Japan.
 4. *Judgment which is in itself a recognition of a previous foreign judgment*
These judgments are enforceable.
 5. *Judgments against the State or any of its organs*
These judgments are enforceable.
 6. *Any judgments which would not be enforceable apart from judgments which are against public policy*
It is generally accepted that a 'foreign judgment' does not include an administrative determination, a settlement, notarial deed, interlocutory judgment, preliminary injunction or bankruptcy adjudication.

- XII. Korea (Kim, Shin and Yu in Garb and Lew)
- a. The Republic of Korea is a unified civil law jurisdiction with one set of national laws, which apply to the entire nation.
 - b. Categories of judgments other than money judgments and their enforceability
 1. *Specific performance*
Specific performance judgments are enforceable, except for judgments enforcing personal service contracts which cannot be specifically enforced.
 2. *Injunctions*
Injunctions cannot be enforced because Korean courts do not have contempt power.
 3. *Award for multiple/punitive damages*
It is not clear whether a foreign award of punitive damages would be enforced. Korea does not award punitive damages; arguably such an award may be against public policy.
 4. *Judgment which is in itself a recognition of a previous foreign judgment*
A judgment which is in itself a recognition of a previous foreign judgment would not be enforced because the Korean court must examine the original judgment for compliance with

Article 203 of the Code of Civil Procedure. (It governs the effect to be given to a judgment rendered by a foreign court).

5. Judgments against the State or any of its organs

If a judgment, which is against the Korean State or one of its organs relates to a commercial or trade obligation and is not barred by sovereign immunity then it can be enforced. Otherwise, enforcement would contravene social order.

6. Any judgments which would not be enforceable apart from judgments which are against public policy

Judgments are not enforceable if they do not meet all of the requirements of Article 203 of the Code of Civil Procedure. Tax or penal judgments are probably not enforceable.

According to article 203 a foreign judgment shall be recognised, if it meets all the following conditions:

- It must be final and conclusive;
- The jurisdiction of the foreign court must not be denied in laws and regulations or in treaty;
- If the defeated defendant is a Korean citizen, he must have received summons other than by public notice or responded to the suit without being properly served;
- The judgment must not violate the good morals and social order of Korea;
- The foreign court must accord reciprocity in respect of the judgments of Korean courts.

XIII. Australia (F. Smith in Garb and Lew)

a. Australia is a federation consisting of six states and two territories and is a common law country. The enforcement of foreign judgments is governed by the common law or by the applicable statute. Enforcement by common law, which was a complicated and uncertain procedure, has been replaced to a significant extent by federal legislation which provides for the registration, and then enforcement of foreign judgements. If the judgment is registered it can then be enforced as if it was a judgment given in the local court. Where this Act does not apply, the common law on enforcement of foreign judgments will continue to be applicable. The Federal Foreign Judgments Act 1991 came into force on 27 October 1991. It is an Act for the registration and enforcement of foreign judgments in state, territory and federal courts. It only applies to judgments entered after the date of commencement of the Act. The common law will continue to apply to judgments granted prior to commencement of the Act. The Act applies only to judgments rendered by superior and specified inferior courts in countries nominated in regulations made under the Act. The Act also provides that certain judgments will be unenforceable in Australia. These are from countries which do not provide substantial reciprocity to Australian judgments and which are specified in regulations made under the Act. So far, no countries have been so specified. The Act also provides for the enforcement of non-money judgments if the requisite regulations have been made. So far, they have not been made, so foreign parties wishing to enforce such judgments must rely upon the principles of equity.

b. Categories of judgments other than money judgments and their enforceability

1. Specific performance

Specific performance judgments will be enforceable (if appropriate regulations are made).

2. Injunctions

Injunctions will be enforceable (if appropriate regulations are made).

3. Award for multiple/punitive damages

These awards are enforceable.

4. Judgment which is in itself a recognition of a previous foreign judgment

These judgments are enforceable.

5. Judgments against the State or any of its organs

Actions against the State are immune pursuant to the Foreign State Immunities Act 1983. However, there are exceptions.

6. Any judgments which would not be enforceable apart from judgments which are against public policy

For policy reasons affecting the international trading interests of Australia the Commonwealth Government has enacted the Foreign Proceedings (Excess of Jurisdiction) Act 1984. This legislation is directed at limiting the enforcement of judgments given under foreign law, for example, anti-trust laws. In addition, a judgment cannot be registered if it is for the payment of tax (except New Zealand tax or recoverable Papua New Guinea income tax), fines or similar penalties in the original country.

XIV. Canada (British Columbia, Ontario, Quebec) (L. Downs (BC), P.L. Biro (O), E. Nicodeme and A. Melchiorre (Q) in Garb and Lew)

a. Canada is a federal State and British Columbia (BC), Ontario (O) and Quebec (Q) are the three provinces within the federation. Each province has the jurisdiction to regulate enforcement of foreign judgments respecting most areas of the law and will enact its own legislation in this matter, although certain areas such as bankruptcy and marriage are regulated by the federal government. Quebec, as opposed to the other provinces is a civil law jurisdiction. Principles and rules of private international law are codified in the Civil Code of 1994.

b. Categories of judgments other than money judgments and their enforceability

1. Specific performance

BC + O: a foreign judgment for specific performance is not enforceable.

Q: These judgements are enforceable.

2. Injunctions

BC + O: An injunction issued by a foreign court is not enforceable.

Q: Only permanent injunctions are enforceable.

3. Award for multiple/punitive damages

BC: As long as the judgment is ascertained it may be enforced. No distinction is made between types of damages in enforcement of foreign judgments.

O: A money award for multiple/punitive damages could be enforced just as a foreign judgment. If the damage award is not in monetary form, the court would not enforce it.

Q: An award for multiple/punitive damages should be enforced or recognised under the Civil Code unless the local courts consider such remedy to be a foreign public law provision or to be contrary to public order.

4. Judgment which is in itself a recognition of a previous foreign judgment

BC + O + Q: These judgments are enforceable

5. Judgments against the State or any of its organs

BC + O: It is not clear whether a foreign judgment against the governments of BC, O or Canada could be enforced.

Q: A foreign judgment against the province of Q or one of its state bodies will be enforced only when it has been validly rendered by a foreign court exercising jurisdiction as defined by Q law. A foreign judgment against the province of Q concerning a non-commercial or public matter will not be enforced.

6. Any judgments which would not be enforceable apart from judgments which are against public policy

BC + O: Foreign judgments are not enforceable if they are for the payment of taxes and penalties. In addition, a foreign judgment which has the effect of adversely affecting competition or the efficiency of trade/industry in Canada may not be enforced. The Attorney General of Canada may prohibit any person in Canada from complying with foreign judgments which may adversely affect significant Canadian interest in relation to international trade or commerce.

Q: Judgments enforcing obligations arising from laws of taxation will neither be enforced nor be recognised by local courts unless the foreign courts grant reciprocity. This prohibition can be extended to all foreign judgments applying foreign public laws.