



**UNIFORM LAW CONFERENCE OF CANADA
CIVIL SECTION**

**POLICY REPORT #2 ON THE
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT**

**PRESENTED BY
THE WORKING GROUP ON THE
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT**

Readers are cautioned that the ideas or conclusions set forth in this paper, including any proposed statutory language and any comments or recommendations, may not have been adopted by the Uniform Law Conference of Canada. They may not necessarily reflect the views of the ULCC and its delegates.

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WORKING GROUP MEMBERSHIP

[1] The Working Group (WG) for the Uniform Enforcement of Foreign Judgments Act (UEFJA) is made up of the following members:

- Geneviève Saumier (Chair – Université de Montréal)
- Joost Blom (University of British Columbia)
- Stephen Pitel (Western University)
- Catherine Walsh (McGill University)
- Emmanuelle Jacques (Federal)
- Helen Habte-Selassie (Federal)
- Laurence Bergeron (Québec)
- Michael Hall (New Brunswick)
- John Lee (Ontario)
- Brad Kring (Alberta)
- Darcy McGovern (Saskatchewan)
- Blair Barbour (Prince Edward Island)
- Frank Pignoli (Ontario)
- Christina Croteau (ULCC)

[2] At the 2025 Annual Meeting in Halifax, the first policy report was presented by the Chair of the WG. Since then the WG has met online on four occasions (14 November 2025, 17 December 2025, 17 February 2026 and 31 March 2026) and worked through email exchanges throughout that period.

BACKGROUND

[3] The Civil Section is referred to the Background Section of the first policy report submitted at the Annual Meeting in August 2025.

[4] At the 2025 Annual Meeting, the Civil Section adopted the first policy report and resolved that the Working Group continue its work in accordance with the direction proposed in the report. The Section also resolved that the WG should present its final report and draft UEFJA at the 2026 Annual Meeting. For reasons further discussed in the second report, it is proposed by the WG that submission of a final report and draft UECJA be postponed to the 2027 Annual Meeting.

APPLICATION

[5] The proposed Act is addressed to common law jurisdictions. The WG determined that the Act will not be bijural. This decision reflects the reality that Québec's codification of enforcement rules within the Civil Code of Québec is sufficiently comprehensive and includes distinctive elements that makes adoption of the proposed uniform act within

Québec's legal framework unlikely. The Commentary will highlight similarities and divergences with Quebec law.

CONSULTATIONS

[6] No external consultation was carried out on the proposed policies.

ANALYSIS AND ISSUES

[7] This section details the main discussions held by the WG.

1 – OUTSTANDING ISSUES IDENTIFIED IN THE FIRST POLICY REPORT OF 2025

[8] The first policy report identified the following issues that had been discussed by the WG but for which no consensus had yet been achieved. The WG has now finalized its discussion of these issues in the following manner.

A – Common law enforcement action

[9] The WG concluded that the UEFJA should expressly exclude recourse to common law enforcement for foreign judgments within its scope of application. Three reasons support this view. First, the proposed instrument is closely aligned with current common law on the enforcement of foreign judgments. As such, maintaining a parallel common law enforcement option is both unnecessary and inefficient. Second, the proposed instrument does include some minor variations and additions to the common law rules whose purpose would be frustrated if judgments could continue to be enforced at common law. This includes, for example, a narrower rule for residence of legal persons, specific rules on time limitations, currency conversions and limitations on damages. Finally, having a single statutory mechanism for enforcement provides greater predictability and transparency for all parties involved in the process for enforcing foreign judgments.

B – Enforcement of foreign judgments dealing with rights in rem in immoveable property

[10] The WG proposes to exclude from the scope of the proposed instrument foreign judgments principally concerned with title to, or the right to possession of, immovable property located within the enacting jurisdiction. This exclusion aligns with the subject-matter competence rule in Section 12.2(1) of the Uniform Court Jurisdiction and Proceedings Transfer Act, added in the revised version of the instrument in 2021.

[11] This proposal does not lead to the exclusion of foreign judgments that deal with rights in rem in property outside the enacting jurisdiction. Such judgments will be within scope and subject to the rules of indirect jurisdiction in the instrument.

C – Protection of consumers and employees

[12] The WG determined that the optional language contained in s. 7(2)(a)(i) of the Uniform Enforcement of Canadian Judgments Act [UEJCA] should be included in the UEFJA and

remain optional. Enacting jurisdictions will decide whether to provide additional protection to local consumers and employees subject to foreign judgments brought for enforcement in those jurisdictions.

D – Foreign civil protection orders

[13] The inclusion of a separate part on foreign civil protection orders is proposed by the WG. This will mirror the existing provisions in the UECJA. The commentary to the UEFJA will suggest that jurisdictions that move to enact both the UECJA and the UEFJA include the part on foreign civil protection orders in the latter act only. It is important to note that the WG responsible for the development of the UECJA stated in its 2023 final report (at para. 21) that it did not review the provisions on the enforcement of civil protection orders in the predecessor Uniform Act and chose only to update the commentary to that Act. In that WG’s 2022 report (at para. 55), it suggested that that members of the WG did not have the requisite subject-matter expertise to properly consider the provisions. Similarly, this WG has not reviewed the merits of the provisions.

2 –NEW OUTSTANDING ISSUES

A – Limitation on damages

[14] The first issue that remains outstanding concerns a provision allowing for a limitation on enforcement of excessive damages. Such a provision is included in the existing UEFJA and the WG is of the view that its inclusion in the proposed version is useful. It allows a judgment debtor to request that the enforcing court limit enforcement of a foreign money judgment that orders payment of an amount of damages, whether compensatory or punitive in nature, considered to be excessive. While the public policy exception could potentially be used to the same effect, the threshold for its application is very high. An express provision would signal that a limitation on enforcement of excessive damages can occur in less restrictive circumstances, while remaining an exceptional remedy. The WG has not yet reached consensus on the wording of the applicable criterion for the exercise of the court’s intervention.

B – Exclusions from scope

[15] The second remaining issue is more complex and concerns the scope of application of the UEFJA in relation to certain matters. Pursuant to the general approach of following upon the model of the UECJA, the proposed UEFJA will expressly include specific matters by way of a definition of “foreign judgment”, for example, judgments “that declare rights, obligations, or status in relation to a person or thing”. Similarly, some foreign judgments will be expressly excluded from the scope of application of the proposed UEFJA, such as judgments for “maintenance or support” and those that “relate to the care, control or welfare of a minor”. However, the WG is concerned that these current exclusions may be too narrow for an international context. The Act could inadvertently apply to matters already governed by other legislative instruments or international conventions, leading to legal conflicts. For example:

- Divorce: Recognition of a foreign divorce judgment might fall under the UEFJA despite being specifically governed by Section 22 of the *Divorce Act*.
- Parentage, including adoptions: Some Canadian provinces and territories already have legislation governing the recognition of foreign parentage orders and international adoptions are governed by the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.
- Protection of Adults and Foreign Substitute Decision-Making Orders: Some Canadian provinces and territories already have legislation governing the recognition of foreign substitute decision-making orders. Further, [the 2000 Hague Convention on the International Protection of Adults](#), to which Canada may become a party, provides its own framework for recognizing foreign measures of protection that the UEFJA's current exclusions do not cover.

[16] To avoid these overlaps, the WG recommends refining the list of exclusions to ensure the UEFJA does not conflict with existing or anticipated law. Further work is required to develop a satisfactory list of exclusions.

OPTIONS FOR CONSIDERATION

[17] In light of the issues and the analysis made in the previous section, the WG recommends that delegates approve the following policies.

[18] That the UEFJA exclude recourse to the common law for enforcement of foreign judgments within its scope of application.

[19] That the UEFJA exclude from its scope foreign judgments dealing with rights in rem in immoveable property situated in the enacting jurisdiction.

[20] That the UEFJA include an optional provision for the protection of local consumers and employees who were defendants in foreign proceedings.

[21] That the UEFJA include a part on the enforcement of foreign civil protection orders.

NEXT STEPS

[22] The WG has almost completed its work on its revisions of the UEFJA in accordance with the directions provided at the annual meeting in 2025. There are only a few outstanding issues that require further consideration, as outline above. The WG is confident that a full draft text and commentary of the revised UEFJA will be ready for presentation to the ULCC at its annual meeting in 2027.

DRAFT RESOLUTION

[23] In view of the above, it is proposed to the delegates:

THAT the Policy report of the Working Group on the Uniform Enforcement of Foreign Judgments Act be accepted;

THAT the Working Group continue working in accordance with the direction of the ULCC; and

THAT the Working Group present a Final report as well as a draft Uniform Act at the 2027 annual meeting.