

Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill to be introduced into LegCo

The Government will introduce the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement) Bill into the Legislative Council (LegCo) to implement the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region (HKSAR) (REJ Arrangement) signed between the HKSAR Government and the Supreme People's Court on January 18, 2019.

A spokesman for the Department of Justice (DoJ) said today (April 20), "With the increasingly close interaction and co-operation between Hong Kong and the Mainland in terms of trade and economic activities as well as social interactions, there have been calls from the legal and business sectors for the early implementation of the REJ Arrangement to establish a more comprehensive mechanism on reciprocal recognition and enforcement of judgments (REJ) in order to reduce the need for re-litigation of the same disputes in both places, offering better protection to the parties' interests and in turn putting in place a broad coverage of REJ in civil and commercial matters to Hong Kong and the Mainland. It will also enhance Hong Kong's competitiveness as a regional centre for international legal and dispute resolution services."

In formulating the REJ Arrangement, reference has been drawn to the then draft version of the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Hague Judgments Convention) (Note). As far as the scope of application is concerned, taking into account the practical needs and circumstances of Hong Kong and the Mainland, the REJ Arrangement goes beyond the Hague Judgments Convention by not only covering a wide range of judgments on contractual and tortious disputes, but also expressly includes judgments given in respect of certain types of disputes over intellectual property rights. This major breakthrough makes Hong Kong the first jurisdiction to have an arrangement with the Mainland on REJ with such a wide coverage, reflecting the unique advantages of "one country, two systems", and complementing Hong Kong's development into a regional intellectual property trading centre.

The Bill establishes the following mechanisms:

- (1) A mechanism for registration in Hong Kong of Mainland Judgments in Civil or Commercial Matters; and
- (2) A mechanism for application to Hong Kong courts for certified copies of and certificates for Hong Kong Judgments in Civil or Commercial Matters to

facilitate parties in seeking recognition and enforcement of the Judgments in the Mainland.

The REJ Arrangement will come into effect simultaneously in Hong Kong and the Mainland after both places have respectively put in place the relevant implementation mechanisms. In the Mainland, the REJ Arrangement will be implemented by way of judicial interpretation. In Hong Kong, after the enactment of the Bill, the Government will make relevant rules for the operation of the above mechanisms.

A public consultation on the Bill was conducted by the DoJ between December 2021 and January 2022. Most respondents indicated their support for the implementation of the REJ Arrangement through the Bill. The LegCo Panel on Administration of Justice and Legal Services was consulted in March 2022, and expressed support for the legislative proposal.

The Bill will be gazetted on Friday (April 22), and will then be introduced into LegCo on May 4.

Note: The Hague Judgments Convention was signed on July 2, 2019, and is yet to be in force.