

REPUBLIC OF RWANDA



SUPREME COURT



**MEMORANDUM OF GUIDANCE AS TO ENFORCEMENT OF
MONEY JUDGMENTS**

BETWEEN

THE SUPREME COURT OF THE REPUBLIC OF RWANDA

AND

THE SUPREME COURT OF THE REPUBLIC OF SINGAPORE

Introduction

1. The purpose of this Memorandum of Guidance (“MOG”) is to set out the understanding of the Supreme Court of Rwanda and the Supreme Court of Singapore (hereinafter referred to individually as a “party” and collectively as the “parties”) regarding the procedures for the enforcement of each party's money judgments. This MOG is concerned only with judgments requiring a person to pay a sum of money to another person.
2. This MOG does not create any binding legal obligations on the parties. This MOG does not constitute a treaty or legislation, is not binding on the judicial officers of either party and does not supersede any existing or future laws, judicial decisions or court rules. It is not intended to be exhaustive and is not intended to create or alter any existing or future legal rights or relations or to create any binding arrangements for the reciprocal enforcement of each party's money judgments in the other party's courts.
3. The parties desire and believe that the cooperation demonstrated by this MOG will provide a mutual understanding of their laws and judicial processes and will improve public perception and understanding.

The Supreme Court of Singapore

4. The Supreme Court of Singapore is a superior court of law. It comprises the General Division of the Singapore High Court, the Appellate Division of the Singapore High Court and the Singapore Court of Appeal. The Singapore International Commercial Court is a division of the Singapore High Court and part of the Supreme Court of Singapore. The courts shall be referred to collectively as “the Singapore Courts”.

The Supreme Court of Rwanda

5. The Supreme Court of Rwanda is the highest court of Rwanda. It oversees the functioning of other courts. It has a special jurisdiction that comprises cases of public interest litigation, interpretation of the constitution, statutory interpretation, reviewing cases where it was established that there were serious miscarriage of justice and it tries first and last instance criminal cases involving high ranking officials of Rwanda. The Supreme Court does not receive appeals from any court. The President of the Supreme Court is by virtue of the Constitution the Chief Justice of Rwanda.
6. The Court of Appeal is the last of appeal court on merit. Cases from the Court of Appeal are not appealable to the Supreme Court. The Court of Appeal hears appeals from the Commercial High Court, the High Court and the Military High Court. Each of them functions independently. The High Court has five chambers. There is one Commercial Tribunal, 12 Intermediate Courts whose cases are appealable to the different chambers of the High Court and 41 Primary Tribunals whose cases are appealable to the Intermediate Courts. The Supreme Court, the

Court of Appeal, the Commercial High Court and the High Court of Rwanda shall hereinafter be collectively referred to as “the Rwandan Superior Courts”.

The requirements for enforcing judgments of the Rwandan Superior Courts in the Singapore Courts

7. There is currently no treaty in place pursuant to which either party's judgments may be registered for enforcement by the other party's courts. In the absence of a relevant treaty, a foreign judgment may be enforced in the Singapore Courts by filing an action at common law.
8. The approach of the Singapore Courts is where a foreign court of competent jurisdiction has given judgment that a certain sum of money is due from one person to another, an obligation arises on the debtor to pay that sum. The creditor may then bring an action at common law in the Singapore Courts to enforce that obligation as a debt.
9. The judgment of the Rwandan Superior Courts must be final and conclusive on the merits of the case, and for a fixed or ascertainable sum of money.
10. The Singapore Courts will not enforce a judgment of the Rwandan Superior Courts which would amount to the direct or indirect enforcement of any foreign penal, revenue or public law, or that orders the person against whom the judgment was given to do anything else apart from the payment of the judgment sum.
11. The Rwandan Superior Courts must have had jurisdiction, according to the conflict of laws rules determined to be applicable by the Singapore Courts, to determine the subject matter of the dispute. The Singapore Courts will generally consider the Rwandan Superior Courts to have had the required jurisdiction only where the person against whom the judgment was given:
 - a) was, at the time the proceedings were commenced, present or resident in the jurisdiction of the Rwandan Superior Courts;
 - b) was the claimant, or counterclaimant, in the proceedings; or
 - c) submitted to the jurisdiction of the Rwandan Superior Courts.
12. Where the above requirements are established to the satisfaction of the Singapore Courts, a judgment of the Rwandan Superior Courts may be challenged in the Singapore Courts only on limited grounds. Those grounds include, but are not limited to:
 - a) where the judgment was procured by fraud;
 - b) where the enforcement of the judgment would be contrary to Singapore public policy; and
 - c) where the proceedings in which the judgment was obtained were conducted in a manner which the Singapore Courts regard as contrary to the principles of natural justice.

13. The Singapore Courts will not re-examine the merits of a judgment of the Rwandan Superior Courts. The judgment may not be challenged on the grounds that it contains an error of fact or law. A judgment of the Rwandan Superior Courts will be enforced on the basis that the judgment debtor has a legal obligation, recognised by the Singapore Courts, to satisfy a judgment of the Rwandan Superior Courts.

The requirements for enforcing judgments of the Singapore Courts in the Rwandan Superior Courts

14. Law No. 30/2018 of 02/06/2018 determining the Jurisdiction of Courts in its Article 44 stipulates the requirements for judgments from the Singapore Courts to be enforced in the Rwandan Superior Courts, through the procedure of authentication known as *exequatur*. The application must be filed at first instance in the High Court (for civil cases) or the Commercial High Court (for commercial, financial and fiscal cases) and the presiding judge must ascertain that the following criteria are fulfilled:
 - a) The judgment does not contravene public order, Rwandan laws and general principles of law.
 - b) The trial reflected in the judgment has followed due process and upheld rights of natural justice.
 - c) The judgment seeking a writ of enforceability has acquired the force of *res judicata* in accordance with the laws of the country of origin.
 - d) The judgment seeking a writ of enforceability has been certified to be an authentic copy, meaning it has been certified to be so by the Singapore Courts.

The procedure for enforcement of judgments of the Supreme Court of Rwanda in the Supreme Court of Singapore

15. In order to enforce a judgment of the Rwandan Superior Courts in the Supreme Court of Singapore, the judgment creditor must commence an action by filing a writ of summons in the Singapore Courts, that is endorsed with a concise statement of the nature of the claim and claiming the amount of the judgment debt and interest (where applicable). An authenticated copy of the judgment should be exhibited to the writ.
16. A judgment creditor may obtain an authenticated copy of a judgment of the Rwandan Courts by making a request to the Supreme Court of Rwanda through the Registry of Courts and the issuing of the copy will be after payment. The request must exhibit a copy of the judgment which is required to be authenticated. Where the Supreme Court of Rwanda provides an authenticated copy of a judgment of the Rwandan Superior Courts, it will provide a copy of the judgment on which will be endorsed a certificate that it is a true or authenticated copy. The certificate will be signed by the Registrar of Court. The authenticated copy of the judgment will be sealed with the seal of the Supreme Court of Rwanda.
17. Where the judgment debtor is outside of Singapore, the judgment creditor will have to seek the leave of court to serve the writ out of jurisdiction in accordance with Order 11 of the Singapore Rules of Court (Chapter 322, Section 80, Revised Edition 2014) ("Singapore Rules of

Court"). The application for leave must be supported by an affidavit in a form prescribed by the Singapore Rules of Court, among other things:

- a) exhibiting an authenticated copy of the relevant Rwandan Superior court's judgment;
 - b) stating that the claim is brought to enforce the relevant Rwandan Superior court's judgment (see Order 11, Rule 1(m) of the Singapore Rules of Court);
 - c) stating that the judgment creditor believes that it has a good cause of action; and
 - d) Stating the place or country the judgment debtor is, or probably may be found.
18. If, after the judgment creditor has effected valid service, the judgment debtor does not respond to the claim by entering an appearance, the judgment creditor will be entitled to obtain judgment in default of appearance under Order 13 of the Singapore Rules of Court.
19. If the judgment debtor acknowledges service and enters an appearance, the judgment creditor must file and serve a statement of claim setting out the material facts which are relied upon for the claim, and the necessary particulars of the claim. Thereafter, the judgment debtor must file and serve its defence.
20. In most cases, after the defence is filed, a judgment creditor will file an application for summary judgment under Order 14 of the Singapore Rules of Court. The judgment creditor will generally be able to obtain summary judgment, unless the judgment debtor can show that there is a triable issue in relation to a defence, which include, but are not limited to, the grounds set out in paragraph 11 above. Applications for summary judgment are dealt with swiftly, typically without the need for oral evidence.
21. If the claim in the relevant Rwandan Superior court's judgment is successful, the judgment creditor will then have the benefit of a judgment of the Supreme Court of Singapore. The judgment creditor will be entitled, if necessary, to use the procedures of the Supreme Court of Singapore to enforce the judgment under the Singapore Rules of Court.

The procedure for enforcement of judgments of the Singapore Courts in the Rwandan Superior Courts

22. In accordance with Article 250 of the Rwandan Civil Procedure Code and, except where international agreements provide otherwise, judgments from foreign jurisdiction and foreign deeds issued by foreign officials are not enforceable in Rwanda unless they are rendered enforceable by a competent Rwandan Court (through *exequatur*).
23. For a judgment of the Singapore Courts to be enforced in Rwanda, the judgment creditor will first file a claim seeking authentication of the copy of the judgment to be enforced in Rwanda.
24. A judgment creditor may obtain an authenticated copy of a judgment of the Singapore Courts by making an application in accordance with the Supreme Court of Singapore Practice Directions or the Singapore International Commercial Court Practice Directions (as the case may be).

25. The claim for authentication is lodged in the High Court (for civil cases) or in the Commercial High Court (for commercial, financial and fiscal cases) at first instance and for it to be admissible, a court fee is necessary at filing or proof of a fee waiver must be provided.
26. The judge examining such matters will verify and ascertain if the copy of the judgment fulfils the criteria enumerated in paragraphs 13 above and thereafter make a ruling giving leave to the judgment from the Singapore Courts to be enforced in Rwanda.
27. The final judgment from the Appellate Division of the Singapore High Court, meaning a judgment that is not appealed to the Singapore Court of Appeal, will be stamped with an execution formula by the Registry of the High Court or Commercial High Court of Rwanda (as the case may be) after *exequatur*. The execution formula authorizes the execution of the judgment from Singapore in Rwanda.
28. If the judgment of the Appellate Division of the Singapore High Court is appealed to the Singapore Court of Appeal, it is the judgment of the Singapore Court of Appeal that will be stamped by the Registry of the Court of Appeal of Rwanda with an execution formula after *exequatur* by the High Court or Commercial High Court, as the case may be).

Term of MOG

29. This MOG shall commence on the date of this MOG. Either party may terminate this MOG by giving the other party six (6) months' notice in writing.

Variation of MOG

30. This MOG may be varied in writing and any such variation shall be signed by both parties.

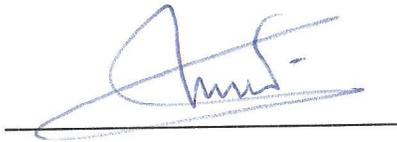
Contacting the Courts

31. Further information about the Supreme Court of Singapore can be obtained:
 - (i) by visiting the website of the Supreme Court of Singapore at <http://www.supremecourt.gov.sg>; or
 - (ii) by contacting the Registry of the Supreme Court of Singapore:
 - a) at Level 2, 1 Supreme Court Lane, Singapore 178879;
 - b) by telephone at +65 6336 0644; or
 - c) by email at supcourt_registry@supcourt.gov.sg.
32. Further information about the Supreme Court of Rwanda can be obtained by visiting the website at:
 - (i) <http://www.Judiciary.gov.rw>
 - (ii) by contacting the Supreme Court of Rwanda Registry;

- a) by telephone at (+250)788890707; (+250)788618509; or (+250) 3670
- b) by email at info@judiciary.gov.rw/ harrison.mutabazi@judiciary.gov.rw
- c) by postal mail: **P.O. Box 2197 Kigali- Rwanda**

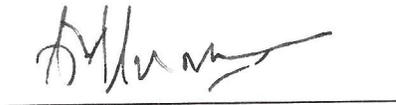
SIGNED on the 19th day of April 2021.

For the Supreme Court of
The Republic of Rwanda



Dr. Faustin NTEZILYAYO
Chief Justice

For the Supreme Court of
The Republic of Singapore



Sundaresh MENON
Chief Justice