

# CONVENTION

## on jurisdiction and the enforcement of judgments

### in civil and commercial matters<sup>\*\*</sup>

*Done at Lugano on 16 September 1988*

#### PREAMBLE

*THE HIGH CONTRACTING PARTIES TO THIS CONVENTION,*

*ANXIOUS to strengthen in their territories the legal protection of persons therein established,*

*CONSIDERING that it is necessary for this purpose to determine the international jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for securing the enforcement of judgments, authentic instruments and court settlements,*

*AWARE of the links between them, which have been sanctioned in the economic field by the free trade agreements concluded between the European Economic Community and the States members of the European Free Trade Association,*

*TAKING INTO ACCOUNT the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, as amended by the Accession Conventions under the successive enlargements of the European Communities,*

*PERSUADED that the extension of the principles of that Convention to the States parties to this instrument will strengthen legal and economic cooperation in Europe,*

*DESIRING to ensure as uniform an interpretation as possible of this instrument,*

*HAVE in this spirit DECIDED to conclude this Convention and*

*HAVE AGREED AS FOLLOWS:*

#### TITLE I

#### SCOPE

##### *Article 1*

[omissis]

#### TITLE II

#### JURISDICTION

##### Section 1

# General provisions

## ***Article 2***

[omissis]

## ***Article 3***

Persons domiciled in a Contracting State may be sued in the courts of another Contracting State only by virtue of the rules set out in Sections 2 to 6 of this Title.

In particular the following provisions shall not be applicable as against them:

- in Belgium: Article 15 of the civil code (Code civil - Burgerlijk Wetboek) and Article 638 of the judicial code (Code judiciaire - Gerechtelijk Wetboek),
- in Denmark: Article 246 (2) and (3) of the law on civil procedure (Lov om rettens pleje),
- in the Federal Republic of Germany: Article 23 of the code of civil procedure (Zivilprozeßordnung),
- in Greece: Article 40 of the code of civil procedure ( *Κώδικας Πολιτικής Δικονομίας* ),
- in France: Articles 14 and 15 of the civil code (Code civil),
- in Ireland: the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland,
- in Iceland: Article 77 of the Civil Proceedings Act (*lög um meðferð einkamála í héraði*),
- in Italy: Articles 2 and 4, Nos 1 and 2 of the code of civil procedure (Codice di procedura civile),
- in Luxembourg: Articles 14 and 15 of the civil code (Code civil),
- in the Netherlands: Articles 126 (3) and 127 of the code of civil procedure (Wetboek van Burgerlijke Rechtsvordering),
- in Norway: Section 32 of the Civil Proceedings Act (*tvistemålsloven*),
- in Austria: Article 99 of the Law on Court Jurisdiction (*Jurisdiktionsnorm*),
- in Portugal: Articles 65 (1) (c), 65 (2) and 65A (c) of the code of civil procedure (Código de Processo Civil) and Article 11 of the code of labour procedure (Código de Processo de Trabalho),
- in Switzerland: *le for du lieu du séquestre / Gerichtsstand des Arrestortes / foro del luogo del sequestro within the meaning of Article 4 of the loi fédérale sur le droit international privé / Bundesgesetz über das internationale Privatrecht / legge federale sul diritto internazionale privato*,
- in Finland: the second, third and fourth sentences of Section 1 of Chapter 10 of the Code of Judicial Procedure (*oikeudenkäymiskaari / rättegångsbalken*),

- in Sweden: the first sentence of Section 3 of Chapter 10 of the Code of Judicial Procedure (*Rättegångsbalken*),

- in the United Kingdom: the rules which enable jurisdiction to be founded on:

(a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or

(b) the presence within the United Kingdom of property belonging to the defendant; or

(c) the seizure by the plaintiff of property situated in the United Kingdom.

## **Article 4**

[omissis]

## **S e c t i o n 2**

# **Special jurisdiction**

## **Article 5**

A person domiciled in a Contracting State may, in another Contracting State, be sued:

*1. in matters relating to a contract, in the courts for the place of performance of the obligation in question; in matters relating to individual contracts of employment, this place is that where the employee habitually carries out his work, or if the employee does not habitually carry out his work in any one country, this place shall be the place of business through which he was engaged;*

2. in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties;

3. in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred;

4. as regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings;

5. as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated;

6. in his capacity as settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the Contracting State in which the trust is domiciled;

7. as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of which the cargo or freight in question:

(a) has been arrested to secure such payment,

or

(b) could have been so arrested, but bail or other security has been given;

provided that  
this provision  
shall apply  
only if it is  
claimed that  
the defendant  
has an  
interest in the  
cargo or  
freight or had  
such an  
interest at the  
time of  
salvage.

### ***Article 6 - Article 6A***

[omissis]

## **S e c t i o n 3**

# **Jurisdiction in matters relating to insurance**

### ***Article 7 - Article 12A***

[omissis]

## **S e c t i o n 4**

# **Jurisdiction over consumer contracts**

### ***Article 13 - Article 15***

[omissis]

## **S e c t i o n 5**

# **Exclusive jurisdiction**

### ***Article 16***

The following courts shall have exclusive jurisdiction, regardless of domicile:

1. (a) in proceedings which have as their object rights *in rem* in immovable property or tenancies of immovable property, the courts of the Contracting State in which the property is situated;

*(b) however, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the Contracting State in which the defendant is domiciled shall also have jurisdiction, provided that the tenant is a natural person and neither party is domiciled in the Contracting State in which the property is situated;*

2. in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the decisions of their organs, the courts of the Contracting State in which the company, legal person or association has its seat;

3. in proceedings which have as their object the validity of entries in public registers, the courts of the Contracting State in which the register is kept;

4. in proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered, the courts of the Contracting State in which the deposit or registration has been applied for, has taken place or is under the terms of an international convention deemed to have taken place;

5. in proceedings concerned with the enforcement of judgments, the courts of the Contracting State in which the judgment has been or is to be enforced.

## **S e c t i o n 6**

# **Prorogation of jurisdiction**

## ***Article 17***

1. If the parties, one or more of whom is domiciled in a Contracting State, have agreed that a court or the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have exclusive jurisdiction. Such an agreement conferring jurisdiction shall be either:

(a) in writing or evidenced in writing, or

(b) in a form which accords with practices which the parties have established between themselves, or

(c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.

Where such an agreement is concluded by parties, none of whom is domiciled in a Contracting State, the courts of other Contracting States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.

2. The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

3. Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Article 12 or 15, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

4. If an agreement conferring jurisdiction was concluded for the benefit of only one of the parties, that party shall retain the right to bring proceedings in any other court which has jurisdiction by virtue of this Convention.

5. *In matters relating to individual contracts of employment an agreement conferring jurisdiction shall have legal force only if it is entered into after the dispute has arisen.*

## ***Article 18***

[omissis]

## **S e c t i o n 7**

# **Examination as to jurisdiction and admissibility**

## ***Article 19 - Article 20***

[omissis]

## **S e c t i o n 8**

# ***Lis Pendens* - related actions**

## ***Article 21 - Article 23***

[omissis]

## **S e c t i o n 9**

# **Provisional, including protective, measures**

## ***Article 24***

[omissis]

## **TITLE III**

# **RECOGNITION AND ENFORCEMENT**

## ***Article 25***

[omissis]

## **S e c t i o n 1**

# **Recognition**

### ***Article 26 - Article 27***

[omissis]

### ***Article 28***

Moreover, a judgment shall not be recognized if it conflicts with the provisions of Sections 3, 4 or 5 of Title II or in a case provided for in Article 59.

*A judgment may furthermore be refused recognition in any case provided for in Article 54B (3) or 57 (4).*

In its examination of the grounds of jurisdiction referred to in the foregoing paragraphs, the court or authority applied to shall be bound by the findings of fact on which the court of the State of origin based its jurisdiction.

Subject to the provisions of the first and second paragraphs, the jurisdiction of the court of the State of origin may not be reviewed; the test of public policy referred to in Article 27 (1) may not be applied to the rules relating to jurisdiction.

### ***Article 29 - Article 30***

[omissis]

## **S e c t i o n 2**

# **Enforcement**

### ***Article 31***

[omissis]

### ***Article 32***

1. The application shall be submitted:

- in Belgium, to the tribunal de première instance or rechtbank van eerste aanleg,
- in Denmark, to the byret,
- in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht,
- in Greece, to the μονομελές πρωτοδικείο ,

- in Spain, to the Juzgado de Primera Instancia,
- in France, to the presiding judge of the tribunal de grande instance,
- in Ireland, to the High Court,
- in Iceland, to the *héraðsdómari*,
- in Italy, to the corte d'appello,
- in Luxembourg, to the presiding judge of the tribunal d'arrondissement,
- in the Netherlands, to the presiding judge of the arrondissementsrechtbank,
- in Norway, to the *herredsrett* or *byrett* as *namsrett*,
- in Austria, to the *Landesgericht* or the *Kreisgericht*,
- in Portugal, to the Tribunal Judicial de Círculo,
- in Switzerland:

*(a) in respect of judgments ordering the payment of a sum of money, to the juge de la mainlevée / Rechtsöffnungsrichter / giudice competente a pronunciare sul rigetto dell'opposizione, within the framework of the procedure governed by Articles 80 and 81 of the loi fédérale sur la poursuite pour dettes et la faillite / Bundesgesetz über Schuldbetreibung und Konkurs / legge federale sulla esecuzione e sul fallimento;*

*(b) in respect of judgments ordering a performance other than the payment of a sum of money, to the juge cantonal d'exequatur compétent / zuständiger kantonaler Vollstreckungsrichter / giudice cantonale competente a pronunciare l'exequatur,*

- in Finland, to the *ulosotonhaltija* /överexekutor,
- in Sweden, to the *Svea hovrätt*,
- in the United Kingdom:

(a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;

(b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court on transmission by the Secretary of State;

(c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State.

2. The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

## **Article 33 - Article 36**

[omissis]



## ***Article 37***

1. An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:

- in Belgium, with the tribunal de première instance or rechtsbank van eerste aanleg,
- in Denmark, with the landsret,
- in the Federal Republic of Germany, with the Oberlandesgericht,
- in Greece, with the , Εφετείο
- in Spain, with the Audiencia Provincial,
- in France, with the cour d'appel,
- in Ireland, with the High Court,
- *in Iceland, with the héraðsdómari,*
- in Italy, with the corte d'appello,
- in Luxembourg, with the Cour supérieure de justice sitting as a court of civil appeal,
- in the Netherlands, with the arrondissementsrechtbank,
- *in Norway, with the lagmannsrett,*
- *in Austria, with the Landesgericht or the Kreisgericht,*
- in Portugal, with the Tribunal da Relação,
- *in Switzerland, with the tribunal cantonal /Kantonsgericht / tribunale cantonale,*
- *in Finland, with the hovioikeus / hovrätt,*
- *in Sweden, with the Svea hovrätt,*
- in the United Kingdom:

(a) in England and Wales, with the High Court of Justice, or in the case of amaintenance judgment with the Magistrates' Court;

(b) in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sheriff Court;

(c) in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.

2. The judgment given on the appeal may be contested only:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,

- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in Iceland, by an appeal to the Hæstiréttur,
- in Norway, by an appeal (kjæremål or anke) to the Høyesteretts Kjæremålsutvalg or Høyesterett,
- in Austria, in the case of an appeal, by a Revisionsrekurs and, in the case of opposition proceedings, by a Berufung with the possibility of a Revision,
- in Portugal, by an appeal on a point of law,
- in Switzerland, by a recours de droit public devant le tribunal fédéral / staatsrechtliche Beschwerde beim Bundesgericht / ricorso di diritto pubblico davanti al tribunale federale,
- in Finland, by an appeal to the korkein oikeus / högsta domstolen,
- in Sweden, by an appeal to the högsta domstolen,
- in the United Kingdom, by a single further appeal on a point of law.

## **Article 38 - Article 39**

[omissis]

## **Article 40**

1. If the application for enforcement is refused, the applicant may appeal:

- in Belgium, to the cour d'appel or hof van beroep,
- in Denmark, to the landsret,
- in the Federal Republic of Germany, to the Oberlandesgericht,
- in Greece, to the Εφετείο ,
- in Spain, to the Audiencia Provincial,
- in France, to the cour d'appel,
- in Ireland, to the High Court,
- in Iceland, to the héraðsdómari,
- in Italy, to the corte d'appello,
- in Luxembourg, to the Cour supérieure de justice sitting as a court of civil appeal,
- in the Netherlands, to the gerechtshof,
- in Norway, to the lagmannsrett,

- in Austria, to the *Landesgericht* or the *Kreisgericht*,
- in Portugal, to the *Tribunal da Relação*,
- in Switzerland, to the *tribunal cantonal* / *Kantonsgericht* / *tribunale cantonale*,
- in Finland, to the *hovioikeus* / *hovrätt*,
- in Sweden, to the *Svea hovrätt*,
- in the United Kingdom:
  - (a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;
  - (b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;
  - (c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court.

2. The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

## **Article 41**

A judgment given on an appeal provided for in Article 40 may be contested only:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the *højesteret*, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a *Rechtsbeschwerde*,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in Iceland, by an appeal to the *Hæstiréttur*,
- in Norway, by an appeal (*kjæremål* or *anke*) to the *Hoyesteretts kjæremålsutvalg* or *Hoyesterett*,
- in Austria, by a *Revisionsrekurs*,
- in Portugal, by an appeal on a point of law,
- in Switzerland, by a *recours de droit public* devant le *tribunal fédéral* / *staatsrechtliche Beschwerde* beim *Bundesgericht* / *ricorso di diritto pubblico* davanti al *tribunale federale*,
- in Finland, by an appeal to the *korkein oikeus* / *högsta domstolen*,
- in Sweden, by an appeal to the *högsta domstolen*,
- in the United Kingdom, by a single further appeal on a point of law.

***Article 42 - Article 45***

[omissis]

**S e c t i o n 3**

**Common provisions**

***Article 46 - Article 49***

[omissis]

**TITLE IV**

**AUTHENTIC INSTRUMENTS AND COURT  
SETTLEMENTS**

***Article 50 - Article 51***

[omissis]

**TITLE V**

**GENERAL PROVISIONS**

***Article 52 - Article 53***

[omissis]

**TITLE VI**

**TRANSITIONAL PROVISIONS**

***Article 54***

The provisions of this Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III if jurisdiction was founded upon rules which accorded with those provided for either in Title II of this Convention or in a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

*If the parties to a dispute concerning a contract had agreed in writing before the entry into force of this Convention that the contract was to be governed by the law of Ireland or of a*

*part of the United Kingdom, the courts of Ireland or of that part of the United Kingdom shall retain the right to exercise jurisdiction in the dispute.*

## **Article 54A**

For a period of three years from the entry into force of this Convention for Denmark, Greece, Ireland, Iceland, Norway, Finland and Sweden, respectively, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of Title II, but also in accordance with the provisions of paragraphs 1 to 7 following. However, upon the entry into force of the International Convention relating to the arrest of sea-going ships, signed at Brussels on 10 May 1952, for one of these States, these provisions shall cease to have effect for that State.

1. A person who is domiciled in a Contracting State may be sued in the courts of one of the States mentioned above in respect of a maritime claim if the ship to which the claim relates or any other ship owned by him has been arrested by judicial process within the territory of the latter State to secure the claim, or could have been so arrested there but bail or other security has been given, and either:

- (a) the claimant is domiciled in the latter State; or
- (b) the claim arose in the latter State; or
- (c) the claim concerns the voyage during which the arrest was made or could have been made; or
- (d) the claim arises out of a collision or out of damage caused by a ship to another ship or to goods or persons on board either ship, either by the execution or non-execution of a manoeuvre or by the non-observance of regulations; or
- (e) the claim is for salvage; or
- (f) the claim is in respect of a mortgage or hypothecation of the ship arrested.

2. A claimant may arrest either the particular ship to which the maritime claim relates, or any other ship which is owned by the person who was, at the time when the maritime claim arose, the owner of the particular ship. However, only the particular ship to which the maritime claim relates may be arrested in respect of the maritime claims set out under 5. (o), (p) or (q) of this Article.

3. Ships shall be deemed to be in the same ownership when all the shares therein are owned by the same person or persons.

4. When in the case of a charter by demise of a ship the charterer alone is liable in respect of a maritime claim relating to that ship, the claimant may arrest that ship or any other ship owned by the charterer, but no other ship owned by the owner may be arrested in respect of such claim. The same shall apply to any case in which a person other than the owner of a ship is liable in respect of a maritime claim relating to that ship.

5. The expression 'maritime claim' means a claim arising out of one or more of the following:

- (a) damage caused by any ship either in collision or otherwise;
- (b) loss of life or personal injury caused by any ship or occurring in connection with the operation of any ship;
- (c) salvage;

- (d) agreement relating to the use or hire of any ship whether by charterparty or otherwise;
- (e) agreement relating to the carriage of goods in any ship whether by charterparty or otherwise;
- (f) loss of or damage to goods including baggage carried in any ship;
- (g) general average;
- (h) bottomry;
- (i) towage;
- (j) pilotage;
- (k) goods or materials wherever supplied to a ship for her operation or maintenance;
- (l) construction, repair or equipment of any ship or dock charges and dues;
- (m) wages of masters, officers or crew;
- (n) master's disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;
- (o) dispute as to the title to or ownership of any ship;
- (p) disputes between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
- (q) the mortgage or hypothecation of any ship.

6. In Denmark, the expression 'arrest' shall be deemed as regards the maritime claims referred to under 5. (o) and (p) of this Article, to include a 'forbud', where that is the only procedure allowed in respect of such a claim under Articles 646 to 653 of the law on civil procedure (lov om rettens pleje).

7. In Iceland, the expression 'arrest' shall be deemed, as regards the maritime claims referred to under 5. (o) and (p) of this Article, to include a 'lögbann', where that is the only procedure allowed in respect of such a claim under Chapter III of the law on arrest and injunction (lög um kyrrsetningu og lögbann).

## **TITLE VII**

# **RELATIONSHIP TO THE BRUSSELS CONVENTION AND TO OTHER CONVENTIONS**

### ***Article 54B***

*1. This Convention shall not prejudice the application by the Member States of the European Communities of the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, signed at Brussels on 27 September 1968 and of the Protocol on interpretation of that Convention by the Court of Justice, signed at Luxembourg on 3 June*

1971, as amended by the Conventions of Accession to the said Convention and the said Protocol by the States acceding to the European Communities, all of these Conventions and the Protocol being hereinafter referred to as the 'Brussels Convention'.

2. However, this Convention shall in any event be applied:

(a) in matters of jurisdiction, where the defendant is domiciled in the territory of a Contracting State which is not a member of the European Communities, or where Article 16 or 17 of this Convention confer a jurisdiction on the courts of such a Contracting State;

(b) in relation to a *lis pendens* or to related actions as provided for in Articles 21 and 22, when proceedings are instituted in a Contracting State which is not a member of the European Communities and in a Contracting State which is a member of the European Communities;

(c) in matters of recognition and enforcement, where either the State of origin or the State addressed is not a member of the European Communities.

3. In addition to the grounds provided for in Title III recognition or enforcement may be refused if the ground of jurisdiction on which the judgment has been based differs from that resulting from this Convention and recognition or enforcement is sought against a party who is domiciled in a Contracting State which is not a member of the European Communities, unless the judgment may otherwise be recognized or enforced under any rule of law in the State addressed.

## **Article 55**

Subject to the provisions of Articles 54 (2) and 56, this Convention shall, for the States which are parties to it, supersede the following conventions concluded between two or more of them:

- the Convention between the Swiss Confederation and France on jurisdiction and enforcement of judgments in civil matters, signed at Paris on 15 June 1869,
- the Treaty between the Swiss Confederation and Spain on the mutual enforcement of judgments in civil or commercial matters, signed at Madrid on 19 November 1896,
- the Convention between the Swiss Confederation and the German Reich on the recognition and enforcement of judgments and arbitration awards, signed at Berne on 2 November 1929,
- the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgments, signed at Copenhagen on 16 March 1932,
- the Convention between the Swiss Confederation and Italy on the recognition and enforcement of judgments, signed at Rome on 3 January 1933,
- the Convention between Sweden and the Swiss Confederation on the recognition and enforcement of judgments and arbitral awards, signed at Stockholm on 15 January 1936,
- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments relating to maintenance obligations, signed at Vienna on 25 October 1957,
- the Convention between the Swiss Confederation and Belgium on the recognition and enforcement of judgments and arbitration awards, signed at Berne on 29 April 1959,

- the Convention between the Federal Republic of Germany and Austria on the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed at Vienna on 6 June 1959,
- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments, arbitral awards and authentic instruments in civil and commercial matters, signed at Vienna on 16 June 1959,
- the Convention between Austria and the Swiss Confederation on the recognition and enforcement of judgments, signed at Berne on 16 December 1960,
- the Convention between Norway and the United Kingdom providing for the reciprocal recognition and enforcement of judgments in civil matters, signed at London on 12 June 1961,
- the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970,
- the Convention between the Kingdom of the Netherlands and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at The Hague on 6 February 1963,
- the Convention between France and Austria on the recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at Vienna on 15 July 1966,
- the Convention between Luxembourg and Austria on the recognition and enforcement of judgements and authentic instruments in civil and commercial matters, signed at Luxembourg on 29 July 1971,
- the Convention between Italy and Austria on the recognition and enforcement of judgments in civil and commercial matters, of judicial settlements and of authentic instruments, signed at Rome on 16 November 1971,
- the Convention between Norway and the Federal Republic of Germany on the recognition and enforcement of judgments and enforceable documents, in civil and commercial matters, signed at Oslo on 17 June 1977,
- the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgments in civil matters, signed at Copenhagen on 11 October 1977,
- the Convention between Austria and Sweden on the recognition and enforcement of judgments in civil matters, signed at Stockholm on 16 September 1982,
- the Convention between Austria and Spain on the recognition and enforcement of judgments, settlements and enforceable authentic instruments in civil and commercial matters, signed at Vienna on 17 February 1984,
- the Convention between Norway and Austria on the recognition and enforcement of judgments in civil matters, signed at Vienna on 21 May 1984, and
- the Convention between Finland and Austria on the recognition and enforcement of judgments in civil matters, signed at Vienna on 17 November 1986.

## **Article 56**

[omissis]



## **Article 57**

1. This Convention shall not affect any conventions to which the Contracting States are or will be parties and which in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

2. This Convention shall not prevent a court of a Contracting State which is party to a convention referred to in the first paragraph from assuming jurisdiction in accordance with that convention, even where the defendant is domiciled in a Contracting State which is not a party to that convention. The court hearing the action shall, in any event, apply Article 20 of this Convention.

*3. Judgments given in a Contracting State by a court in the exercise of jurisdiction provided for in a convention referred to in the first paragraph shall be recognized and enforced in the other Contracting States in accordance with Title III of this Convention.*

*4. In addition to the grounds provided for in Title III, recognition or enforcement may be refused if the State addressed is not a contracting party to a convention referred to in the first paragraph and the person against whom recognition or enforcement is sought is domiciled in that State, unless the judgment may otherwise be recognized or enforced under any rule of law in the State addressed.*

5. Where a convention referred to in the first paragraph to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Convention which concern the procedures for recognition and enforcement of judgments may be applied.

## **Article 58**

**(None)**

## **Article 59**

[omissis]

## **TITLE VIII**

# **FINAL PROVISIONS**

## **Article 60**

*The following may be parties to this Convention:*

*(a) States which, at the time of the opening of this Convention for signature, are members of the European Communities or of the European Free Trade Association;*

*(b) States which, after the opening of this Convention for signature, become members of the European Communities or of the European Free Trade Association;*

*(c) States invited to accede in accordance with Article 62 (1) (b).*

## **Article 61**

- 1. This Convention shall be opened for signature by the States members of the European Communities or of the European Free Trade Association.*
- 2. The Convention shall be submitted for ratification by the signatory States. The instruments of ratification shall be deposited with the Swiss Federal Council.*
- 3. The Convention shall enter into force on the first day of the third month following the date on which two States, of which one is a member of the European Communities and the other a member of the European Free Trade Association, deposit their instruments of ratification.*
- 4. The Convention shall take effect in relation to any other signatory State on the first day of the third month following the deposit of its instrument of ratification.*

## **Article 62**

- 1. After entering into force this Convention shall be open to accession by:*

*(a) the States referred to in Article 60 (b);*

*(b) other States which have been invited to accede upon a request made by one of the Contracting States to the depositary State. The depositary State shall invite the State concerned to accede only if, after having communicated the contents of the communications that this State intends to make in accordance with Article 63, it has obtained the unanimous agreement of the signatory States and the Contracting States referred to in Article 60 (a) and (b).*

*2. If an acceding State wishes to furnish details for the purposes of Protocol 1, negotiations shall be entered into to that end. A negotiating conference shall be convened by the Swiss Federal Council.*

*3. In respect of an acceding State, the Convention shall take effect on the first day of the third month following the deposit of its instrument of accession.*

*4. However, in respect of an acceding State referred to in paragraph 1 (a) or (b), the Convention shall take effect only in relations between the acceding State and the Contracting States which have not made any objections to the accession before the first day of the third month following the deposit of the instrument of accession.*

## **Article 63**

*Each acceding State shall, when depositing its instrument of accession, communicate the information required for the application of Articles 3, 32, 37, 40, 41 and 55 of this Convention and furnish, if need be, the details prescribed during the negotiations for the purposes of Protocol 1.*

## **Article 64**

*1. This Convention is concluded for an initial period of five years from the date of its entry into force in accordance with Article 61 (3), even in the case of States which ratify it or accede to it after that date.*

*2. At the end of the initial five-year period, the Convention shall be automatically renewed from year to year.*

*3. Upon the expiry of the initial five-year period, any contracting State may, at any time, denounce the Convention by sending a notification to the Swiss Federal Council.*

4. The denunciation shall take effect at the end of the calendar year following the expiry of a period of six months from the date of receipt by the Swiss Federal Council of the notification of denunciation.

## **Article 65**

*The following are annexed to this Convention:*

- a Protocol 1, on certain questions of jurisdiction, procedure and enforcement,
- a Protocol 2, on the uniform interpretation of the Convention,
- a Protocol 3, on the application of Article 57.

*These Protocols shall form an integral part of the Convention.*

## **Article 66**

*Any Contracting State may request the revision of this Convention. To that end, the Swiss Federal Council shall issue invitations to a revision conference within a period of six months from the date of the request for revision.*

## **Article 67**

*The Swiss Federal Council shall notify the States represented at the Diplomatic Conference of Lugano and the States who have later acceded to the Convention of:*

- (a) *the deposit of each instrument of ratification or accession;*
- (b) *the dates of entry into force of this Convention in respect of the Contracting States;*
- (c) *any denunciation received pursuant to Article 64;*
- (d) *any declaration received pursuant to Article Ia of Protocol 1;*
- (e) *any declaration received pursuant to Article Ib of Protocol 1;*
- (f) *any declaration received pursuant to Article IV of Protocol 1;*
- (g) *any communication made pursuant to Article VI of Protocol 1.*

## **Article 68**

*This Convention, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Icelandic, Irish, Italian, Norwegian, Portuguese, Spanish and Swedish languages, all fourteen texts being equally authentic, shall be deposited in the archives of the Swiss Federal Council. The Swiss Federal Council shall transmit a certified copy to the Government of each State represented at the Diplomatic Conference of Lugano and to the Government of each acceding State.*

*In witness whereof, the undersigned Plenipotentiaries have signed this Convention.*

*Done at Lugano on the sixteenth day of September in the year one thousand nine hundred and eighty-eight.*