



**ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟΝ**

**ΤΗΣ ΕΠΙΣΗΜΟΥ ΕΦΗΜΕΡΙΔΟΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ**

ὕπ' Ἀρ. 1262 τῆς 12ης ΜΑΡΤΙΟΥ 1976

**ΝΟΜΟΘΕΣΙΑ**

Ὁ περί τῆς Συμβάσεως περί τῆς Ἀναγνώρισεως καὶ Ἐκτελέσεως Ἀλλοδαπῶν Δικαστικῶν Ἀποφάσεων εἰς Ἀστικές καὶ Ἐμπορικές Ὑποθέσεις καὶ Συμπληρωματικὸν Πρωτόκολλον αὐτῆς (Κυρωτικὸς) Νόμος τοῦ 1976 ἐκδίδεται διὰ δημοσιεύσεως εἰς τὴν ἐπίσημον ἐφημερίδα τῆς Κυπριακῆς Δημοκρατίας συμφώνως τῷ ἄρθρῳ 52 τοῦ Συντάγματος.

Ἀριθμὸς 11 τοῦ 1976

**ΝΟΜΟΣ ΚΥΡΩΝ ΤΗΝ ΣΥΜΒΑΣΙΝ ΠΕΡΙ ΤΗΣ ΑΝΑΓΝΩΡΙΣΕΩΣ ΚΑΙ ΕΚΤΕΛΕΣΕΩΣ ΑΛΛΟΔΑΠΩΝ ΔΙΚΑΣΤΙΚΩΝ ΑΠΟΦΑΣΕΩΝ ΕΙΣ ΑΣΤΙΚΑΣ ΚΑΙ ΕΜΠΟΡΙΚΑΣ ΥΠΟΘΕΣΕΙΣ ΚΑΙ ΣΥΜΠΛΗΡΩΜΑΤΙΚΟΝ ΠΡΩΤΟΚΟΛΛΟΝ ΑΥΤΗΣ.**

Ἡ Βουλὴ τῶν Ἀντιπροσώπων ψηφίζει ὡς ἀκολούθως:—

1. Ὁ παρὼν Νόμος θὰ ἀναφέρηται ὡς ὁ περί τῆς Συμβάσεως περί τῆς Ἀναγνώρισεως καὶ Ἐκτελέσεως Ἀλλοδαπῶν Δικαστικῶν Ἀποφάσεων εἰς Ἀστικές καὶ Ἐμπορικές Ὑποθέσεις καὶ Συμπληρωματικὸν Πρωτόκολλον αὐτῆς (Κυρωτικὸς) Νόμος τοῦ 1976. Συνοπτικὸς τίτλος.

2. Ἐν τῷ παρόντι Νόμῳ, ἕκτος ἐὰν ἐκ τοῦ κειμένου προκύπτῃ διάφορος ἔννοια— Ἐρμηνεία.

«Σύμβασις» σημαίνει τὴν Σύμβασιν περί τῆς Ἀναγνώρισεως καὶ Ἐκτελέσεως Ἀλλοδαπῶν Δικαστικῶν Ἀποφάσεων εἰς Ἀστικές καὶ Ἐμπορικές Ὑποθέσεις καὶ τὸ Συμπληρωματικὸν Πρωτόκολλον αὐτῆς, τῶν ὁποίων τὸ κείμενον ἐν τῷ ἀγγλικῷ πρωτοτύπῳ ἐκτίθεται εἰς τὸ Μῆρος Πρῶτον τοῦ Πίνακος καὶ ἐν μεταφράσει εἰς τὴν ἑλληνικὴν εἰς τὸ Μῆρος Δεύτερον τοῦ Πίνακος. Πίναξ.

Νοεῖται ὅτι ἐν περιπτώσει ἀντιθέσεως μεταξὺ τῶν δύο κειμένων, ὑπερισχῆι τὸ εἰς τὸ Μῆρος Πρῶτον τοῦ Πίνακος ἐκτιθέμενον κείμενον.

3. Ἡ Σύμβασις τὴν ὁποίαν ἡ Κυπριακὴ Δημοκρατία ὑπέγραψε τὴν 1ην Φεβρουαρίου 1971, δυνάμει τῆς ὑπ' ἄρ. 9.772 καὶ ἡμερ. 11ην Ἰουνίου 1970 Ἀποφάσεως τοῦ Ὑπουργικοῦ Συμβουλίου, διὰ τοῦ παρόντος Νόμου κυροῦται. Κύρωσις Συμβάσεως.

ΠΙΝΑΞ  
 ("Αρθρον 2)  
 ΜΕΡΟΣ ΠΡΩΤΟΝ

CONVENTION ON THE RECOGNITION AND ENFORCEMENT  
 OF FOREIGN JUDGMENTS IN CIVIL AND COMMERCIAL  
 MATTERS AND SUPPLEMENTARY PROTOCOL THERETO

The States signatory to the present Convention,

Desiring to establish common provisions on mutual recognition and enforcement of judicial decisions rendered in their respective countries,

Have resolved to conclude a Convention to this effect and have agreed on the following provisions :

Chapter I.—SCOPE OF THE CONVENTION

Article 1

This Convention shall apply to decisions rendered in civil or commercial matters by the courts of Contracting States.

It shall not apply to decisions the main object of which is to determine—

(1) the status or capacity of persons or questions of family law, including personal or financial rights and obligations between parents and children or between spouses ;

(2) the existence or constitution of legal persons or the powers of their officers ;

(3) maintenance obligations, so far as not included in sub-paragraph (1) of this article ;

(4) questions of succession ;

(5) questions of bankruptcy, compositions or analogous proceedings, including decisions which may result therefrom and which relate to the validity of the acts of the debtor ;

(6) questions of social security ;

(7) questions relating to damage or injury in nuclear matters.

This Convention does not apply to decisions for the payment of any customs duty, tax or penalty.

Article 2

This Convention shall apply to all decisions given by the courts of a Contracting State, irrespective of the name given by that State to the proceedings which gave rise to the decision or of the name given to the decision itself such as judgment order or writ of execution.

However, it shall apply neither to decisions which order provisional or protective measures nor to decisions rendered by administrative tribunals.

Article 3

This Convention shall apply irrespective of the nationality of the parties.

Chapter II.—CONDITIONS OF RECOGNITION AND ENFORCEMENT

Article 4

A decision rendered in one of the Contracting States shall be entitled to recognition and enforcement in another Contracting State under the terms of this Convention—

(1) if the decision was given by a court considered to have jurisdiction within the meaning of this Convention, and

(2) if it is no longer subject to ordinary forms of review in the State of origin.

In addition, to be enforceable in the State addressed, a decision must be enforceable in the State of origin.

#### Article 5

Recognition or enforcement of a decision may nevertheless be refused in any of the following cases—

(1) if recognition or enforcement of the decision is manifestly incompatible with the public policy of the State addressed or with due process of law or if, in the circumstances, either party had no adequate opportunity fairly to present his case;

(2) if the decision was obtained by fraud in the procedural sense;

(3) if proceedings between the same parties, based on the same facts and having the same purpose—

(a) are pending before a court of the State addressed and those proceedings were the first to be instituted, or

(b) have resulted in a decision by a court of the State addressed, or

(c) have resulted in a decision by a court of another State which would be entitled to recognition and enforcement under the law of the State addressed.

#### Article 6

Without prejudice to the provisions of Article 5, a decision rendered by default shall neither be recognized nor enforced unless the defaulting party received notice of the institution of the proceedings in accordance with the law of the State of origin in sufficient time to enable him to defend the proceedings.

#### Article 7

Recognition or enforcement may not be refused for the sole reason that the court of the State of origin has applied a law other than that which would have been applicable according to the rules of private international law of the State addressed.

Nevertheless, recognition or enforcement may be refused if to reach its decision, the court of the State of origin had to decide a question relating either to the status or the capacity of a party or to his rights in other matters excluded from this Convention by sub-paragraphs (1) — (4) of the second paragraph of Article 1, and has reached a result different from that which would have followed from the application to that question of the rules of private international law of the State addressed.

#### Article 8

Without prejudice to such review as is required by the terms of the preceding Articles, there shall be no review of the merits of the decision rendered by the court of origin.

#### Article 9

In questions relating to the jurisdiction of the court of the State of origin, the authority addressed shall be bound by the findings of fact on which that court based its jurisdiction, unless the decision was rendered by default.

#### Article 10

The court of the State of origin shall be considered to have jurisdiction for the purposes of this Convention—

(1) if the defendant had, at the time when the proceedings were instituted, his habitual residence in the State of origin, or, if the defendant is not a natural person, its seat, its place of incorporation or its principal place of business in that State;

(2) if the defendant had, in the State of origin, at the time when the proceedings were instituted, a commercial, industrial or other business establishment, or a branch office, and was cited there in proceedings arising from business transacted by such establishment or branch office;

(3) if the action had as its object the determination of an issue relating to immovable property situated in the State of origin;

(4) in the case of injuries to the person or damage to tangible property, if the facts which occasioned the damage occurred in the territory of the State of origin, and if the author of the injury or damage was present in that territory at the time when those facts occurred;

(5) if, by a written agreement or by an oral agreement confirmed in writing within a reasonable time, the parties agreed to submit to the jurisdiction of the court of origin disputes which have arisen or which may arise in respect of a specific legal relationship, unless the law of the State addressed would not permit such an agreement because of the subject-matter of the dispute;

(6) if the defendant has argued the merits without challenging the jurisdiction of the court or making reservations thereon; nevertheless such jurisdiction shall not be recognized if the defendant has argued the merits in order to resist the seizure of property or to obtain its release, or if the recognition of this jurisdiction would be contrary to the law of the State addressed because of the subject-matter of the dispute;

(7) if the person against whom recognition or enforcement is sought was the plaintiff in the proceedings in the court of origin and was unsuccessful in those proceedings, unless the recognition of this jurisdiction would be contrary to the law of the State addressed because of the subject-matter of the dispute.

#### Article 11

The court of the State of origin shall be considered to have jurisdiction for the purposes of this Convention to try a counterclaim—

(1) if that court would have had jurisdiction to try the action as a principal claim under sub-paragraphs (1)—(6) of Article 10, or

(2) if that court had jurisdiction under Article 10 to try the principal claim and if the counterclaim arose out of the contract or out of the facts on which the principal claim was based.

#### Article 12

The jurisdiction of the court of the State of origin need not be recognized by the authority addressed in the following cases—

(1), if the law of the State addressed confers upon its courts exclusive jurisdiction, either by reason of the subject-matter of the action or by virtue of an agreement between the parties as to the determination of the claim which gave rise to the foreign decision;

(2) if the law of the State addressed recognizes a different exclusive jurisdiction by reason of the subject-matter of the action, or if the authority addressed considers itself bound to recognize such an exclusive jurisdiction by reason of an agreement between the parties;

(3) if the authority addressed considers itself bound to recognize an agreement by which exclusive jurisdiction is conferred upon arbitrators.

### Chapter III.—RECOGNITION AND ENFORCEMENT PROCEDURES

#### Article 13

The party seeking recognition or applying for enforcement shall furnish—

(1) a complete and authenticated copy of the decision;

(2) if the decision was rendered by default, the originals or certified true copies of the documents required to establish that the summons was duly served on the defaulting party;

(3) all documents required to establish that the decision fulfills the conditions of sub-paragraph 2 of paragraph 1 of Article 4, and, where appropriate, of paragraph 2 of Article 4;

(4) unless the authority addressed otherwise requires, translations of the documents referred to above, certified as correct either by a diplomatic or consular agent or by a sworn translator or by any other person so authorized in either State.

If the terms of the decision do not permit the authority addressed to verify whether the conditions of this Convention have been complied with, that authority may require the production of any other necessary documents.

No legalisation or other like formality may be required.

#### Article 14

The procedure for the recognition or enforcement of foreign judgments is governed by the law of the State addressed so far as this Convention does not provide otherwise.

If the decision contains provisions which can be dissociated, any one or more of these may be separately recognized or enforced.

#### Article 15

Recognition or enforcement of an award of judicial costs or expenses may be accorded by virtue of this Convention only if this Convention is applicable to the decision on the merits.

This Convention shall apply to decisions relating to judicial costs or expenses even if such decisions do not proceed from a court, provided that they derive from a decision which may be recognised or enforced under this Convention and that the decision relating to costs or expenses could have been subject to judicial review.

#### Article 16

A judgment for costs or expenses given in connection with the granting or refusal of recognition or enforcement of a decision may be enforced under this Convention only if the applicant in the proceedings for recognition or enforcement relied on this Convention.

#### Article 17

No security, bond or deposit, however termed under the law of the State addressed, shall be required by reason of the nationality or domicile of the applicant to guarantee the payment of judicial costs or expenses if the applicant, being a natural person, has his habitual residence in or, not being a natural person, has a place of business in a State which has concluded with the State addressed a Supplementary Agreement in terms of Article 21.

#### Article 18

A party granted legal aid in the State of origin shall be extended such aid in accordance with the law of the State addressed in any proceedings for the recognition or for the enforcement of a foreign decision.

#### Article 19

Settlements made in court in the course of a pending proceeding which may be enforced in the State of origin shall be enforceable in the State addressed under the same conditions as decisions falling within this Convention, so far as those conditions apply to settlements.

### Chapter IV.—CONCURRENT ACTIONS

#### Article 20

If two States have concluded a Supplementary Agreement pursuant to Article 21, the judicial authorities of either State may dismiss an action brought