

No. 5972

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
FEDERAL REPUBLIC OF GERMANY**

**Convention for the reciprocal recognition and enforcement
of judgments in civil and commercial matters (with
Protocol of signature). Signed at Bonn, on 14 July 1960**

Official texts : English and German.

*Registered by the United Kingdom of Great Britain and Northern Ireland on 20 November
1961.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention relative à la reconnaissance et à l'exécution
réciproque des jugements en matière civile et commer-
ciale (avec Protocole de signature). Signée à Bonn,
le 14 juillet 1960**

Textes officiels anglais et allemand.

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 20 novembre
1961.*

No. 5972. CONVENTION¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT BONN, ON 14 JULY 1960

Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of Her Other Realms and Territories, Head of the Commonwealth, and the President of the Federal Republic of Germany,

Desiring to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters ;

Have resolved to conclude a Convention for this purpose and to that end have appointed as their Plenipotentiaries :

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her Other Realms and Territories, Head of the Commonwealth, (hereinafter referred to as Her Majesty The Queen) :

For the United Kingdom of Great Britain and Northern Ireland :

His Excellency Sir Christopher Eden Steel, G.C.M.G., M.V.O., Her Majesty's Ambassador Extraordinary and Plenipotentiary at Bonn,

The President of the Federal Republic of Germany :

Dr. Albert Hilger van Scherpenberg, State-Secretary of the Federal Foreign Office, and Professor Dr. Arthur Bülow, *Ministerialdirigent* in the Federal Ministry of Justice ;

who, having communicated to each other their respective full powers found in good and due form, have agreed as follows :

Article I

For the purposes of the present Convention :

(1) The words "territory of one (or of the other) High Contracting Party" shall mean :

¹ Came into force on 15 July 1961, one month after the exchange of the instruments of ratification which took place at London on 14 June 1961, in accordance with article XIII.

- (a) in relation to Her Majesty The Queen, the United Kingdom (England and Wales, Scotland and Northern Ireland) and any territories to which the Convention may have been extended under Article XII, and
- (b) in relation to the President of the Federal Republic of Germany, the territory of the Federal Republic of Germany.

(2) The words "superior court" shall mean :

- (a) in the case of the United Kingdom, the House of Lords ; and for England and Wales, the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and Durham ; for Scotland, the Court of Session and the Sheriff Courts ; and for Northern Ireland, the Supreme Court of Judicature ; and
- (b) in the case of the Federal Republic of Germany, the Landgerichte, the Oberlandesgerichte, the Bayerische Oberste Landesgericht and the Bundesgerichtshof.

All other courts in these territories shall be "inferior courts" for the purposes of this Convention.

(3) The word "judgments" shall mean all decisions of a court, however described (i.e., judgments, orders and the like), by which the rights of the parties are finally decided, and shall include *gerichtliche Vergleiche*, but shall not include orders for anticipatory seizure (*Arrestbefehle*), or other decisions by which only a provisional security is obtained for a claim or other interlocutory orders. The rights of the parties shall be deemed to be finally decided, notwithstanding that an appeal may be pending against the judgment or that it may still be subject to appeal in the courts of the country of the original court.

(4) The words "original court" shall mean, in relation to any judgment, the court by which such judgment was given ; and the words "court or authority applied to", the court or authority in which it is sought to obtain recognition of a judgment or to which an application for the enforcement of a judgment is made.

(5) The words "judgment debtor" shall mean the person against whom the judgment was given in the original court and include any person who has succeeded to the liability under the judgment by the law of the country of the original court ; and the words "judgment creditor", the person in whose favour the judgment was given and include his successors and assigns.

(6) The words "judgments in civil and commercial matters" shall not be deemed to include judgments given in proceedings for the recovery of any form of taxation (state or municipal) or for the recovery of penalties, but shall be deemed to include judgments given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party.

(7) The word "appeal" shall include any proceedings by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution.

(8) The words "action *in personam*" shall not be deemed to include any action in matters of family law or status (including divorces or other proceedings in matrimonial causes) or any proceedings in matters of succession or the administration of the estates of deceased persons.

Article II

(1) Judgments pronounced by a superior court in the territory of one High Contracting Party, other than judgments given on appeal from inferior courts, shall, whatever the nationality of the judgment creditor or debtor, be recognised and enforced in the territory of the other in the cases and upon the conditions laid down in Articles III to IX inclusive of the present Convention.

(2) Nevertheless the provisions of the present Convention shall not apply to judgments in bankruptcy proceedings or proceedings for the winding up of companies or other bodies corporate.

(3) Nothing in the present Convention shall be deemed to preclude the recognition and enforcement in the territory of one High Contracting Party, in accordance with the municipal law for the time being in force in the country concerned, of judgments pronounced by any court in the territory of the other High Contracting Party being judgments to which the present Convention does not apply, or judgments given in circumstances where the provisions of the present Convention do not require such recognition or enforcement.

Article III

(1) Judgments in civil and commercial matters, given after the date of the entry into force of the present Convention by any superior court in the territory of one High Contracting Party, shall be recognised in the territory of the other in all cases where there is no adjournment of the decision on the recognition of the judgment under paragraph (2) of this Article and where no objection to the judgment can be established on any of the grounds hereinafter enumerated : that is to say, unless :

(a) in the case in question, the jurisdiction of the original court is not recognised under the provisions of Article IV ;

(b) the judgment was given by default, and the judgment debtor did not appear in the proceedings and satisfies the court or authority applied to that he did not actually acquire knowledge of the proceedings in reasonably sufficient time to act upon it. It is understood that in all cases where it is proved that notice of the pro-

ceedings has been duly served on the defendant in conformity with the provisions of Article 3 or 5 of the Convention signed between the United Kingdom and Germany on March 20, 1928,¹ it shall be deemed to be conclusive evidence that the defendant actually acquired knowledge of the proceedings ;

(c) the judgment is one which, for reasons of public policy, cannot be recognised by the court or authority applied to, including cases where the judgment :

- (i) is in respect of a cause of action which had already, at the date of the judgment of the original court, as between the same parties, formed the subject of another judgment which is recognised under the law of the country of the court or authority applied to as final and conclusive ;
- (ii) has, in the opinion of the court or authority applied to, been obtained by fraud ;
- (iii) was given against a person, defendant in the proceedings before the original court who, in the opinion of the court or authority applied to, under the rules of public international law was entitled to immunity from the jurisdiction of the original court and did not submit to the jurisdiction of the original court ;
- (iv) is sought to be enforced against a person who is entitled to immunity from the jurisdiction of the court or authority applied to under the rules of public international law.

(2) Where the judgment debtor satisfies the court or authority applied to that proceedings by way of appeal have been instituted against the judgment in the country of the original court, or that such proceedings have not been actually instituted, but the time for appeal has not elapsed under the law of the country of the original court, the court or authority applied to may nevertheless recognise the judgment or may, if the judgment debtor makes an application to this effect, refuse to recognise the judgment or adjourn its decision on the recognition of the judgment so as to allow the judgment debtor a reasonable opportunity of completing or of instituting such proceedings.

(3) The recognition of a judgment shall not be refused merely on the ground that the original court has applied, in the choice of the system of law applicable to the case, rules of private international law different from those observed by the court or authority applied to.

(4) The recognition of a judgment means that such judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action between

¹ League of Nations, *Treaty Series*, Vol. XC, p. 287 ; Vol. XCII, p. 413 ; Vol. C, p. 252 ; Vol. CIV, p. 523 ; Vol. CVII, p. 525 ; Vol. CXXII, p. 356 ; Vol. CXXX, p. 451 ; Vol. CXXXIV, p. 408 ; Vol. CLVI, p. 208 ; Vol. CLX, p. 348, and Vol. CXC VII, p. 301.