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No. 6029

**BELGIUM
and
AUSTRIA**

Convention concerning the reciprocal recognition and enforcement of judicial decisions, arbitral awards and authentic acts in civil and commercial matters. Signed at Vienna, on 16 June 1959

Official texts: French and German.

Registered by Belgium on 8 January 1962.

**BELGIQUE
et
AUTRICHE**

Convention sur la reconnaissance et l'exécution réciproques des décisions judiciaires, sentences arbitrales et actes authentiques en matière civile et commerciale. Signée à Vienne, le 16 juin 1959

Textes officiels français et allemand.

Enregistrée par la Belgique le 8 janvier 1962.

[TRANSLATION — TRADUCTION]

No. 6029. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF AUSTRIA CONCERNING THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS, ARBITRAL AWARDS AND AUTHENTIC ACTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT VIENNA, ON 16 JUNE 1959

His Majesty the King of the Belgians and the Federal President of the Republic of Austria, desiring to provide for the reciprocal recognition and enforcement of judicial decisions and arbitral awards made in civil and commercial matters, and of authentic acts, have resolved to conclude a Convention for this purpose and have appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

Mr. Georges Delcoigne, his Ambassador to the Republic of Austria, and
Mr. A. J. Herment, Inspector-General at the Ministry of Foreign Affairs and Foreign Trade ;

The Federal President of the Republic of Austria :

Dr. Martin Fuchs, Ambassador Extraordinary and Plenipotentiary, Secretary-General for Foreign Affairs, and
Dr. Viktor Hoyer, Chief of Section at the Federal Ministry of Justice,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

Article 1

(1) This Convention shall apply to judicial decisions made in civil and commercial matters by the courts of the High Contracting Parties.

(2) For the purposes of this Convention, the term "decisions" shall be deemed to mean any decisions made in contentious or voluntary proceedings, regardless of the name given to them, with the exception of decisions relating to bankruptcy, composition and the grant of time to pay.

(3) Judicial decisions within the meaning of paragraph (1) of this article shall also include those made in civil or commercial matters by a criminal court.

¹ Came into force on 16 December 1961, the sixtieth day following the exchange of the instruments of ratification, which took place at Brussels on 17 October 1961, in accordance with the provisions of article 10. This Convention is not applicable to the Trust Territory of Ruanda-Urundi.

(4) For the purposes of this Convention, the expression "court of origin" shall be deemed to mean the court which made the decision, and the expression "court applied to" shall be deemed to mean, in Austria, the court applied to for enforcement, and in Belgium, the court which is asked to make the decision enforceable.

Article 2

(1) Decisions made by a court of one of the High Contracting Parties shall be recognized in the territory of the other High Contracting Party if they satisfy the following conditions :

- (a) That the court of origin had jurisdiction under article 3 of this Convention ;
- (b) That the ordinary remedies are no longer available against the decision ;
- (c) That, subject to the provisions of sub-paragraph (d) of this paragraph, the parties were duly represented or were duly declared in default, after having been duly summoned to appear ; this condition shall not be deemed to have been met if, in the case of a decision by default, the defaulting party satisfies the court applied to for recognition that he could not in fact have received notice of the proceedings in time to take part in them ; the service of summons on the defendant in accordance with the procedure prescribed in article 3 of the International Conventions relating to Civil Procedure concluded at The Hague on 17 July 1905¹ and 1 March 1954² shall constitute proof that he did in fact receive notice of the proceedings ;
- (d) That, in the case of a payment order or writ of execution, the decision has been duly communicated to the party against whom it was made ; this condition shall not be deemed to have been met if the said party satisfies the court applied to for recognition that he could not in fact have received notice of the decision in time to oppose it ; service on the said party in accordance with the procedure prescribed in article 3 of the International Conventions relating to Civil Procedure concluded at The Hague on 17 July 1905 and 1 March 1954 shall constitute proof that he did in fact receive notice of the decision ;
- (e) That the copy of the decision produced is duly authenticated in accordance with the laws of the State where the decision was made and that it bears the seal of the court of origin.

(2) Recognition shall, however, be refused :

- (a) If it is contrary to the public policy of the State in which it is applied for ; or
- (b) If the same claim, based on the same cause of action and involving the same parties, has already been the subject of a decision on the merits in the State in which recognition is applied for, even though remedies may still be available in that State ; or

¹ De Martens, *Nouveau Recueil général de Traités*, troisième série, tome II, p. 243 ; League of Nations, *Treaty Series*, Vol. L, p. 180 ; Vol. LIV, p. 434 ; Vol. XCII, p. 420, and Vol. C, p. 265 ; and United Nations, *Treaty Series*, Vol. 216, p. 432, and Vol. 293, p. 389.

² United Nations, *Treaty Series*, Vol. 286, p. 265.