

No. 7161

**BELGIUM
and
ITALY**

**Convention concerning the recognition and enforcement of
judicial decisions and other enforceable instruments
in civil and commercial matters. Signed at Rome, on
6 April 1962**

Official text: French.

Registered by Belgium on 9 March 1964.

**BELGIQUE
et
ITALIE**

**Convention concernant la reconnaissance et l'exécution des
décisions judiciaires et d'autres titres exécutoires en
matière civile et commerciale. Signée à Rome, le 6 avril
1962**

Texte officiel français.

Enregistrée par la Belgique le 9 mars 1964.

[TRANSLATION — TRADUCTION]

No. 7161. CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND THE ITALIAN REPUBLIC CONCERNING THE RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS AND OTHER ENFORCEABLE INSTRUMENTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT ROME, ON 6 APRIL 1962

His Majesty the King of the Belgians and

The President of the Italian Republic,

Desiring to regulate relations between the two countries with respect to the recognition and enforcement of judicial decisions and other enforceable instruments in civil and commercial matters,

Have resolved to conclude a Convention for this purpose and have appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

His Excellency Mr. Joseph van der Elst, Ambassador of the Kingdom of Belgium ;

The President of the Italian Republic :

His Excellency Mr. Giuseppe Lupis, Under-Secretary of State for Foreign Affairs,

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

PART I

RECOGNITION OF JUDICIAL DECISIONS

Article 1

Decisions made in civil and commercial matters by the judicial authorities of one of the two contracting States shall be recognized in the territory of the other State if they satisfy the following conditions :

¹ Came into force on 13 February 1964, three months after the exchange of the instruments of ratification which took place at Brussels on 13 November 1963, in accordance with the provisions of article 19.

(1) That the decision was made by a court recognized as having jurisdiction under article 2 of this Convention ;

(2) That the decision, even if the ordinary remedies are still available against it, has determined the rights of the parties in such manner as to remove the case from the jurisdiction of the court ;

(3) That, in the case of a judgement by default, the summons giving notice of the proceedings was served in good time ;

(4) That the decision is not contrary to a decision already made on the same action between the same parties by a judicial authority of the State in which recognition is applied for ;

(5) That no action based on the same cause and involving the same parties is pending before a court of the State in which recognition is applied for, having been brought before that court before the decision was made ;

(6) That the public policy of the State in which recognition is applied for is not opposed thereto.

Article 2

1. The judicial authority of the State in which the decision was made shall be deemed to have jurisdiction for the purposes of the foregoing article if, at the time when the application is made, one of the following conditions is satisfied :

(1) If, in the case of a personal action, the defendant or one of the defendants had, according to the law of the State in which the decision was made, his domicile or residence in the territory of that State ;

(2) If, in regard to a dispute concerning a specific contract, the defendant had agreed in writing to accept the jurisdiction of the State in which the decision was made, unless the parties to the said agreement are nationals of the State in which the decision is invoked and have their domicile or residence therein ;

(3) If the defendant entered a defence on the merits without refusing to acknowledge the jurisdiction of the judicial authorities of the State in which the decision was made ;

(4) If the defendant had a commercial or industrial establishment or branch establishment in the State in which the decision was made and was summoned in an action arising out of the operation of the said establishment ;

(5) If in a case relating to a contract the action was brought before the judge of the State in which the obligation originated or was or should have been carried out ;

(6) If the proceedings arose out of an unlawful act committed in the territory of the State in which the decision was made ;

(7) If the action concerned a dispute relating to the status, legal capacity or family rights of nationals of the State in which the decision was made ;

(8) If the subject of the proceedings was a right *in rem* in respect of property situated in the State in which the decision was made ;

(9) In matters of inheritance, if the deceased had his last domicile in the State in which the decision was made, irrespective of whether the estate comprises movable or immovable property :

- (a) in actions claiming the rights of an heir, actions for partition and all other actions between co-heirs, until partition of the estate ;
- (b) in actions for avoidance or rescission of a partition and actions for the guarantee of the shares, until two years from the date of partition ;
- (c) in actions against the executor, until partition, or, if partition is not necessary, until two years from the death of the deceased ;
- (d) in actions by legatees and creditors not having rights *in rem* in respect of immovable property, within the time-limits indicated in the preceding sub-paragraph ;

(10) If, jurisdiction being recognized with respect to the principal claim, there is a subsidiary claim, a claim for the performance of a guarantee or a counter-claim connected with the principal claim or with the defence put forward against it ;

(11) In any other case, if jurisdiction is determined by other Conventions in force between the two States or is based on the rules relating to international jurisdiction recognized by the law of the State in which the decision is invoked.

2. The foregoing provisions shall not apply to decisions concerning actions which are recognized under the law of the State in which recognition is applied for as being within the exclusive jurisdiction of its own judicial authorities or those of a third State.

Article 3

Decisions made in one of the two States by a criminal court ruling on the civil consequences of an offence which resulted in a conviction, shall be recognized in the other State if they were not pronounced by default and satisfy the following conditions :

- (1) That the ordinary remedies are no longer available against the decision ;
- (2) That the decision concerns an offence committed in the territory of the State in which the decision was made ;
- (3) That the defendant was assisted or represented at the trial by counsel ;
- (4) That the conditions prescribed in article 1 (4), (5) and (6) are satisfied.