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No. 7957

NETHERLANDS
and
FEDERAL REPUBLIC OF GERMANY

Treaty concerning the reciprocal recognition and enforcement of judicial decisions and other executory instruments in civil and commercial matters. Signed at The Hague, on 30 August 1962

Official texts: Dutch and German.

Registered by the Netherlands on 13 October 1965.

PAYS-BAS
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention relative à la reconnaissance et à l'exécution réciproques des jugements et autres titres d'exécution en matière civile et commerciale. Signée à La Haye, le 30 août 1962

Textes officiels néerlandais et allemand.

Enregistrée par les Pays-Bas le 13 octobre 1965.

[TRANSLATION — TRADUCTION]

No. 7957. TREATY¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY CONCERNING THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS AND OTHER EXECUTORY INSTRUMENTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT THE HAGUE, ON 30 AUGUST 1962

Her Majesty the Queen of the Netherlands and

The President of the Federal Republic of Germany,

Desiring to regulate the reciprocal recognition and enforcement of judicial decisions and other executory instruments in civil and commercial matters,

Have agreed to conclude a Treaty and have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Mr. J. M. A. H. Luns, Minister for Foreign Affairs,

The President of the Federal Republic of Germany :

Dr. J. Löns, Ambassador Extraordinary and Plenipotentiary at The Hague, and

Dr. A. Bülow, *Ministerialdirektor* in the Federal Ministry of Justice.

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows :

TITLE I

RECOGNITION OF JUDICIAL DECISIONS

Article 1

(1) Decisions rendered in civil or commercial matters by the courts of either State, whereby the rights of the parties are established in adversary or non-adversary proceedings, shall be recognized in the other State even if they have not yet become final. Such recognition shall confer upon the decisions the same authority as they possess in the State in which they were rendered.

¹ Came into force on 15 September 1965, two months after the exchange of the instruments of ratification which took place at Bonn on 15 July 1965, in accordance with article 23.

(2) For the purposes of this Treaty, the term "decision" shall be understood to refer to all decisions, regardless of the name given to them (judgements (*vonnissen* and *arresten* ; *Urteile*), orders (*beschikkingen* ; *Beschlüsse*), writs of execution (*dwangbevelen* ; *Vollstreckungsbefehle*) and interim orders (*voorlopige maatregelen* ; *Arreste* and *einstweilige Verfügungen*)), including decisions whereby the amount of costs is fixed subsequently.

(3) This Treaty shall not apply

- (a) To decisions rendered in criminal proceedings in respect of claims arising out of a legal relationship under civil or commercial law ;
- (b) To decisions in matters relating to marriage or divorce and in other matters relating to personal status ;
- (c) To decisions instituting bankruptcy proceedings, proceedings for a composition or proceedings for a moratorium or to other decisions in such proceedings which affect solely the proceedings in question.

Article 2

Recognition shall not be refused unless :

- (a) It is contrary to the public policy of the State in which the decision is relied upon ; or
- (b) The courts of the State in which the decision was rendered cannot be recognized as competent for the purposes of this Treaty or of another treaty in force between the two States ; or
- (c) In the case of a decision by default, the defendant proves :
 - 1. That the summons or the order instituting the proceedings was not served on him in accordance with the law of the State in which the decision was rendered, or
 - 2. That he had no opportunity to defend himself because he did not receive the summons or the order or it did not reach him early enough ; this shall not apply, however, if the plaintiff proves that the defendant failed to appeal against the decision even though he had learned of it.

Article 3

(1) Recognition shall not be refused solely on the ground that the court which rendered the decision, observing the rules of its own private international law, applied laws other than those which would have been applicable under the private international law of the State in which the decision is relied upon.

(2) Nevertheless, recognition may be refused on the ground specified in paragraph (1) if the decision is based on the determination of a legal relationship under

family law or the law of succession, or of the legal or contractual capacity or legal representation of a national of the State in which the decision is relied upon, or on the declaration of the death of such a national, unless the decision would also have been justified under the private international law of the said State.

Article 4

(1) The courts of the State in which the decision was rendered shall be recognized as competent for the purposes of this Treaty :

- (a) If at the time of institution of the proceedings the defendant, according to the law of the State in which the decision was rendered, had either his domicile or his habitual residence in that State, provided that, in the latter case, he did not have his domicile in the other State ;
- (b) If the defendant has submitted, by agreement, to the jurisdiction of the courts of the State in which the decision was rendered, unless such agreement is contrary to the law of the State in which the decision is relied upon ; an agreement within the meaning of this provision shall be deemed to exist only if one party has made a declaration in writing which has been accepted by the opposing party, or if an agreement arrived at orally has been confirmed in writing by one party and such confirmation has not been contested by the opposing party ;
- (c) If the defendant submitted a defence on the merits of the case before the court of the State in which the decision was rendered, even though the said court did not otherwise possess jurisdiction which would have been recognized under this Treaty ; this shall not apply, however, if the defendant stated, before submitting a defence on the merits of the case, that he was appearing in the proceedings solely with reference to property situated in the State whose court was hearing the case ;
- (d) If, in the State in which the decision was rendered, suit was brought against the defendant at the place where his business establishment or branch establishment was situated, in connexion with claims arising out of the operation of the said establishment or branch establishment ;
- (e) If the subject-matter of the action was a claim arising out of a traffic accident involving a motor vehicle or out of a collision between vessels and the event occurred in the State in which the decision was rendered ;
- (f) If the subject-matter of the section was a right in immovable property or a claim arising out of a right in such property and the immovable property in question is situated in the State in which the decision was rendered ;
- (g) If the action was brought in a dispute relating to succession and the decedent had his last domicile in the State in which the decision was rendered, irrespective of whether the estate comprises movable or immovable property ;