

No. 8290

**NETHERLANDS
and
AUSTRIA**

Treaty concerning the reciprocal recognition and enforcement of judicial decisions and authentic acts in the sphere of civil and commercial law. Signed at The Hague, on 6 February 1963

Official texts: Dutch and German.

Registered by the Netherlands on 5 August 1966.

**PAYS-BAS
et
AUTRICHE**

Convention relative à la reconnaissance et à l'exécution réciproques des décisions judiciaires et des actes authentiques en matière civile et commerciale. Signée à La Haye, le 6 février 1963

Textes officiels néerlandais et allemand.

Enregistré par les Pays-Bas le 5 août 1966.

[TRANSLATION — TRADUCTION]

No. 8290. TREATY¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF AUSTRIA CONCERNING THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS AND AUTHENTIC ACTS IN THE SPHERE OF CIVIL AND COMMERCIAL LAW. SIGNED AT THE HAGUE, ON 6 FEBRUARY 1963

Her Majesty the Queen of the Netherlands and the Federal President of the Republic of Austria,

Desiring to provide for the reciprocal recognition and enforcement of judicial decisions rendered in civil and commercial matters and of authentic acts,

Have decided to conclude a treaty for that purpose and have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Mr. H. R. van Houten, Secretary of State for Foreign Affairs;

The Federal President of the Republic of Austria :

Mr. Claus Winterstein, Ambassador Extraordinary and Plenipotentiary of the Republic of Austria to the Kingdom of the Netherlands,

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

Article 1

(1) This Treaty shall apply to decisions rendered in matters relating to property by the ordinary courts of the High Contracting Parties.

(2) For purposes of the application of this Treaty, Austrian labour courts (*Arbeitsgerichte*) shall be treated as equivalent to ordinary courts.

(3) For purposes of the application of this Treaty, the term " matters relating to property " shall be deemed to include statutory claims for maintenance.

(4) For purposes of the application of this Treaty, the term " decisions " shall be deemed to refer to all decisions, regardless of the name given to them

¹ Came into force on 30 April 1966, the sixtieth day following the date of the exchange of the instruments of ratification which took place at Vienna on 1 March 1966, in accordance with article 12.

(e.g. judgements (*vonnissen, arresten, Urteile*), summary decisions (*beslissingen in kort geding*), orders (*beschikkingen, Beschlüsse*), payment orders (*dwangbevelen, Zahlungsbefehle, Zahlungsaufträge*)), which are rendered in adversary or non-adversary proceedings; the following shall, however, be excepted :

- (a) Decisions in bankruptcy proceedings, proceedings for a composition or proceedings for a moratorium;
- (b) Interim orders;
- (c) Decisions of the criminal courts in respect of claims arising under civil or commercial law;
- (d) Decisions of Netherlands courts directing the debtor to pay a penalty (*dwangsom*) to the creditor if the former fails to comply with his obligation to perform or forbear from an act, save where the amount of the penalty incurred has been fixed by a further decision of a Netherlands court.

Article 2

(1) Decisions rendered by the courts 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 decision was rendered by a court having jurisdiction under article 3 of this Treaty;
- (b) That the decision has become final;
- (c) That the parties were duly represented or, in the case of a decision by default, were duly summoned to appear; in the case of a payment order, the decision must have been duly communicated to the party against whom it was rendered;
- (d) That recognition is not contrary to the public policy of the State in which it is applied for and, in particular, that a final decision has not already been rendered in the same matter and between the same parties in the State in which recognition is applied for;
- (e) That proceedings instituted before the institution of proceedings in the State in which the decision was rendered are not pending in respect of the same matter and between the same parties in the State in which recognition is applied for.

(2) The condition laid down in paragraph (1) (c) shall be deemed not to have been satisfied if :

- (a) In the case of a decision by default, the defaulting party satisfies the court applied to for recognition that he did not receive notice of the proceedings in time to take part in them;