

No. 8755

**AUSTRIA
and
FRANCE**

**Convention concerning the recognition and enforcement of
judgements and authentic acts in civil and commercial
matters. Signed at Vienna, on 15 July 1966**

Official texts: German and French.

Registered by Austria on 7 September 1967.

**AUTRICHE
et
FRANCE**

**Convention sur la reconnaissance et l'exécution des décisions
judiciaires et des actes authentiques en matière civile et
commerciale. Signée à Vienne, le 15 juillet 1966**

Textes officiels allemand et français.

Enregistrée par l'Autriche le 7 septembre 1967.

[TRANSLATION — TRADUCTION]

No. 8755. CONVENTION¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE FRENCH REPUBLIC CONCERNING THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS AND AUTHENTIC ACTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT VIENNA, ON 15 JULY 1966

The Federal President of the Republic of Austria and the President of the French Republic, desiring, in relations between the two States, to ensure the recognition and enforcement of judgements and authentic acts in civil and commercial matters, have resolved to conclude a Convention for this purpose and have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Mr. Lujo Tončić-Sorinj, Federal Minister for Foreign Affairs,
Mr. Hans Klecatsky, Federal Minister of Justice ;

The President of the French Republic :

Mr. Louis Roché, Ambassador Extraordinary and Plenipotentiary,

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

Article 1

This Convention shall apply to judgements given in civil and commercial matters by the courts of the High Contracting Parties, with the exception of judgements relating to bankruptcy, composition and judicial settlement.

Article 2

(1) For the purposes of this Convention :

1. The term "judgement" means any decision, however described, given in contentious or voluntary proceedings, even if handed down by a criminal court ;
2. The term "court of origin" means the court which rendered the judgement whose recognition or enforcement is sought ;
3. The term "State of origin" means the State in whose territory the court of origin has its seat ;

¹ Came into force on 13 August 1967, i.e., on the sixtieth day following the date of the exchange of the instruments of ratification which took place at Paris on 14 June 1967, in accordance with article 21.

4. The term "court applied to" means, in France, the court applied to for an executory declaration and, in Austria, the court applied to for enforcement ;

5. The term "State applied to" means the State in whose territory recognition enforcement is sought.

Article 3

(1) Judgements pronounced by a court of one of the High Contracting Parties shall be recognized in the territory of the other if the court of origin had jurisdiction within the meaning of articles 6 to 11 of this Convention and if, under the law of the State of origin, the judgement has become final.

(2) In the case of a judgement by default, the defendant must have been duly summoned to appear. In the case of a writ of execution (*Zahlungsbefehl – injonction de payer*) or a payment order (*Zahlungsauftrag – mandat de paiement*), the decision must have been duly notified to the judgement debtor.

Article 4

Recognition may be refused in the following cases :

1. If it is contrary to the public policy of the State applied to ;

2. If the same claim, based on the same cause of action, has already formed the subject, as between the same parties, of a judgement on the merits which has become final and which was rendered in the State applied to or was rendered in a third State and is recognized in the State applied to ;

3. If, as between the same parties, the same claim, based on the same cause of action, is pending before a court of the State applied to and the action was brought in such court before it was brought in the court of origin ;

4. If, in the case of a judgement by default, the party in default did not acquire knowledge of the proceedings in sufficient time to act upon it, or, in the case of a writ of execution (*Zahlungsbefehl – injonction de payer*) or a payment order (*Zahlungsauftrag – mandat de paiement*), the judgement debtor did not have sufficient time to apply for a stay of proceedings.

Article 5

(1) Recognition shall not be refused on the ground that the court of origin has applied a law other than that which would have been applicable under the rules of private international law of the State applied to, except with regard to the status or capacity of persons. Even in such cases, recognition shall not be refused if the application of those rules would have led to the same result.

(2) Recognition may be refused if the rules concerning the representation of persons under disability prescribed by the law of the State applied to have been disregarded.

Article 6

This Convention shall not affect the rules relating to the jurisdiction of the courts of the High Contracting Parties. Nevertheless, under article 3, paragraph (1), recognition shall not be granted unless the court of origin had jurisdiction within the meaning of articles 7 to 11.

Article 7

(1) The courts of the State of origin shall have jurisdiction in matters relating to status and capacity if, on the date of the institution of proceedings, one of the persons whose status or capacity is at issue is a national of that State.

(2) The same shall apply where all the persons whose status or capacity is the subject of the proceedings are on that date domiciled or habitually resident in the State of origin and are nationals of the State applied to.

Article 8

In cases where the subject of the proceedings is a right *in rem* in respect of immovable property, the courts of the State where such property is situated shall have jurisdiction. They shall also have jurisdiction in matters relating to the inheritance of immovable property.

Article 9

The courts of the State of origin shall have jurisdiction in matters relating to the inheritance of movable property if the deceased was a national of that State or was last domiciled there.

Article 10

In matters other than those mentioned in articles 7 to 9, the courts of the State of origin shall have jurisdiction :

1. If, on the date of the institution of proceedings, the defendant is domiciled or habitually resident in that State ;

2. If the defendant has or had a commercial, industrial or other establishment or branch establishment in the territory of that State and is served with a summons there in an action relating to the operation of such establishment or branch establishment ;

3. If, in a commercial matter, by express or tacit agreement between the plaintiff and the defendant, the contractual obligation which is the subject of the action has been or should have been discharged in the territory of that State ;

4. If, in the case of a claim for damages based on extracontractual liability, the tort was committed in the territory of that State :