

SCHEDULES

SCHEDULE 1

TEXT OF 1968 CONVENTION, AS AMENDED

TITLE III

RECOGNITION AND ENFORCEMENT

Article 25

For the purposes of this Convention, “judgment” means any judgment given by a court or tribunal of a Contracting State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

Section 1

Recognition

Article 26

A judgment given in a Contracting State shall be recognized in the other Contracting States without any special procedure being required.

Any interested party who raises the recognition of a judgment as the principal issue in a dispute may, in accordance with the procedures provided for in Sections 2 and 3 of this Title, apply for a decision that the judgment be recognized.

If the outcome of proceedings in a court of a Contracting State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

Article 27

A judgment shall not be recognized:

- (1) if such recognition is contrary to public policy in the State in which recognition is sought;
- (2) where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence;
- (3) if the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought;
- (4) if the court of the State in which the judgement was given, in order to arrive at its judgment, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the State in which the recognition is sought, unless the same result would have been reached by the application of the rules of private international law of that State;

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(5) if the judgment is irreconcilable with an earlier judgment given in a non-contracting State involving the same cause of action and between the same parties, provided that this latter judgment fulfils the conditions necessary for its recognition in the State addressed.

Article 28

Moreover, a judgment shall not be recognized if it conflicts with the provisions of Sections 3, 4 or 5 of Title II, or in a case provided for in Article 59.

In its examination of the grounds of jurisdiction referred to in the foregoing paragraph, the court or authority applied to shall be bound by the findings of fact on which the court of the State in which the judgment was given based its jurisdiction.

Subject to the provisions of the first paragraph, the jurisdiction of the court of the State in which the judgment was given may not be reviewed; the test of public policy referred to in point 1 of Article 27, may not be applied to the rules relating to jurisdiction.

Article 29

Under no circumstances may a foreign judgment be reviewed as to its substance.

Article 30

A court of a Contracting State in which recognition is sought of a judgment given in another Contracting State may stay the proceedings if an ordinary appeal against the judgment has been lodged.

A court of a Contracting State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State in which the judgment was given by reason of an appeal.

Section 2

Enforcement

Article 31

A judgment given in a Contracting State and enforceable in that State shall be enforced in another Contracting State when, on the application of any interested party, the order for its enforcement has been issued there.

However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland, or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.

Article 32

The application shall be submitted:

- in Belgium, to the tribunal de première instance or rechtbank van eerste aanleg,
- in Denmark, to the underret,
- in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht,
- in Greece, to the Μονομελές Πρωτοδικείο,
- in France, to the presiding judge of the tribunal de grande instance,
- in Ireland, to the High Court,

- in Italy, to the corte d'appello,
- in Luxembourg, to the presiding judge of the tribunal d'arrondissement,
- in the Netherlands, to the presiding judge of the arrondissementsrechtbank,
- in the United Kingdom:
 1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;
 2. in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court on transmission by the secretary of State;
 3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State.

The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

Article 33

The procedure for making the application shall be governed by the law of the State in which enforcement is sought.

The applicant must give an address for service of process within the area of jurisdiction of the court applied to. However, if the law of the State in which enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative *ad litem*.

The documents referred to in Articles 46 and 47 shall be attached to the application.

Article 34

The court applied to shall give its decision without delay; the party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

The application may be refused only for one of the reasons specified in Articles 27 and 28.

Under no circumstances may the foreign judgment be reviewed as to its substance.

Article 35

The appropriate officer of the court shall without delay bring the decision given on the application to the notice of the applicant in accordance with the procedure laid down by the law of the State in which enforcement is sought.

Article 36

If enforcement is authorized, the party against whom enforcement is sought may appeal against the decision within one month of service thereof.

If that party is domiciled in a Contracting State other than that in which the decision authorizing enforcement was given, the time for appealing shall be two months and shall run from the date of service, either on him in person or at his residence. No extension of time may be granted on account of distance.

Article 37

An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:

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- in Belgium, with the tribunal de première instance or rechtbank van eerste aanleg,
- in Denmark, with the landsret,
- in the Federal Republic of Germany, with the Oberlandesgericht,
- in Greece, with the Εφετείο,
- in France, with the cour d'appel,
- in Ireland, with the High Court,
- in Italy, with the corte d'appello,
- in Luxembourg, with the Cour supérieure de justice sitting as a court of civil appeal,
- in the Netherlands, with the arrondissementsrechtbank,
- in the United Kingdom:
 1. in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;
 2. in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sheriff Court;
 3. in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.

The judgment given on the appeal may be contested only:

- in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in the United Kingdom, by a single further appeal on a point of law.

Article 38

The court with which the appeal under the first paragraph of Article 37 is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgment in the State in which that judgment was given or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within which such an appeal is to be lodged.

Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the State in which it was given shall be treated as an ordinary appeal for the purposes of the first paragraph.

The court may also make enforcement conditional on the provision of such security as it shall determine.

Article 39

During the time specified for an appeal pursuant to Article 36 and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures taken against the property of the party against whom enforcement is sought.

The decision authorizing enforcement shall carry with it the power to proceed to any such protective measures.

Article 40

If the application for enforcement is refused, the applicant may appeal:

- in Belgium, to the cour d'appel or hof van beroep,
- in Denmark, to the landsret,
- in the Federal Republic of Germany, to the Oberlandesgericht,
- in Greece, to the Εφετείο,
- in France, to the court d'appel,
- in Ireland, to the High Court,
- in Italy, to the corte d'appello,
- in Luxembourg, to the Cour supérieure de justice sitting as a court of civil appeal,
- in the Netherlands, to the gerechtshof,
- in the United Kingdom:
 1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;
 2. in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;
 3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court.

The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

Article 41

A judgment given on an appeal provided for in Article 40 may be contested only:

- in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on a point of law to the Supreme Court,
- in the United Kingdom, by a single further appeal on a point of law.

Article 42

Where a foreign judgment has been given in respect of several matters and enforcement cannot be authorized for all of them, the court shall authorize enforcement for one or more of them.

An applicant may request partial enforcement of a judgment.

Article 43

A foreign judgment which orders a periodic payment by way of a penalty shall be enforceable in the State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the State in which the judgment was given.

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Article 44

An applicant who, in the State in which the judgment was given, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

However, an applicant who requests the enforcement of a decision given by an administrative authority in Denmark in respect of a maintenance order may, in the State addressed, claim the benefits referred to in the first paragraph if he presents a statement from the Danish Ministry of Justice to the effect that he fulfils the economic requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

Article 45

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgment given in another Contracting State on the ground that he is a foreign national or that he is not domiciled or resident in the State in which enforcement is sought.

Section 3

Common provisions

Article 46

A party seeking recognition or applying for enforcement of a judgment shall produce:

- (1) a copy of the judgment which satisfies the conditions necessary to establish its authenticity;
- (2) in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document

Article 47

A party applying for enforcement shall also produce:

- (1) documents which establish that, according to the law of the State in which it has been given, the judgment is enforceable and has been served;
- (2) where appropriate, a document showing that the applicant is in receipt of legal aid in the State in which the judgment was given.

Article 48

If the documents specified in point 2 of Articles 46 and 47 are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

If the court so requires, a translation of the documents shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

Article 49

No legalization or other similar formality shall be required in respect of the documents referred to in Articles 46 or 47 or the second paragraph of Article 48, or in respect of a document appointing a representative *ad litem*.