

SCHEDULE 2

Article 8

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TEXT OF 1971 PROTOCOL, AS AMENDED

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and of the Protocol annexed to that Convention, signed at Brussels on 27th September 1968, and also on the interpretation of the present Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the Convention of 27 September 1968 and to this Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Hellenic Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention and the 1982 Convention.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention, the 1982 Convention and the 1989 Convention.

Article 2

The following courts may request the Court of Justice to give preliminary rulings on questions of interpretation—

1

in Belgium: la Cour de Cassation—het Hof van Cassatie and le Conseil d'État—de Raad van State,

— in Denmark: højesteret,

— in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,

— in Greece: the ανωτάτα δικαστήρια,

— in Spain: el Tribunal Supremo,

— in France: la Cour de Cassation and le Conseil d'État,

— in Ireland: the Supreme Court,

— in Italy: la Corte Suprema di Cassazione,

— in Luxembourg: la Cour Supérieure de Justice when sitting as Cour de Cassation,

— in Austria: the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof,

— in the Netherlands: de Hoge Raad,

— in Portugal: o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo.

— in Finland: Korkein oikeus/högsta domstolen and korkein hallinto-oikeus/högsta förvaltningsdomstolen,

— in Sweden: Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

— in the United Kingdom: the House of Lords and courts to which application has been made under the second paragraph of Article 37 or under Article 41 of the Convention.

2. The courts of the Contracting States when they are sitting in an appellate capacity.

3. In the cases provided for in Article 37 of the Convention, the courts referred to in that Article.
Article 3

1. Where a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 is raised in a case pending before one of the courts listed in point 1 of Article 2, that court shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. Where such a question is raised before any court referred to in point 2 or 3 of Article 2, that court may, under the conditions laid down in paragraph 1, request the Court of Justice to give a ruling thereon.

Article 4

1. The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 if judgments given by courts of that State conflict with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in point 1 or 2 of Article 2. The provisions of this paragraph shall apply only to judgments which have become *res judicata*.

2. The interpretation given by the Court of Justice in response to such a request shall not affect the judgments which gave rise to the request for interpretation.

3. The Procurators-General of the Courts of Cassation of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

5. No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

Article 5

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the Convention and the other instruments referred to in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.

Article 6

[Deleted]

Article 7

This Protocol shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 8

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step; provided that it shall at the

earliest enter into force at the same time as the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters.

Article 9

The Contracting States recognise that any State which becomes a member of the European Economic Community, and to which Article 63 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters applies, must accept the provisions of this Protocol, subject to such adjustments as may be required.

Article 10

The Secretary-General of the Council of the European Communities shall notify the signatory States of—

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) any designation received pursuant to Article 4(3);
- (d) [Deleted]

Article 11

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in point 1 of Article 2.

Article 12

This Protocol is concluded for an unlimited period.

Article 13

Any Contracting State may request the revision of this Protocol. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 14

This Protocol, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.”.