

(Acts adopted under Title VI of the Treaty on European Union)

CONVENTION

on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland, by the Convention on the accession of the Hellenic Republic and by the Convention on the accession of the Kingdom of Spain and the Portuguese Republic

(97/C 15/01)

PREAMBLE

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY,

CONSIDERING that the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, in becoming members of the European Union, undertook to accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland, the adjustments made to them by the Convention on the accession of the Hellenic Republic and the adjustments made to them by the Convention of the Kingdom of Spain and the Portuguese Republic, and to this end undertook to enter into negotiations with the Member States of the Community in order to make the necessary adjustments thereto,

MINDFUL that, on 16 September 1988, the Member States of the European Community and the Member States of the European Free Trade Association (EFTA) concluded in Lugano the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, which extends the principles of the Brussels Convention to the States becoming parties to that Convention,

HAVE AGREED AS FOLLOWS:

TITLE I

General provisions

Article 1

The Republic of Austria, the Republic of Finland and the Kingdom of Sweden hereby accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Brussels on 27 September 1968 (hereinafter referred to as 'the 1968 Convention') and to the Protocol on its interpretation by the Court of Justice, signed at Luxembourg on 3 June 1971 (hereinafter referred to as 'the 1971 Protocol'), with all the adjustments and amendments made to them:

(a) by the Convention, signed at Luxembourg on 9 October 1978 (hereinafter referred to as 'the 1978 Convention'), on the accession of the Kingdom of

Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, and to the Protocol on its interpretation by the Court of Justice;

- (b) by the Convention, signed at Luxembourg on 25 October 1982 (hereinafter referred to as 'the 1982 Convention'), on the accession of the Hellenic Republic to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland;
- (c) by the Convention, signed in San Sebastian on 26 May 1989 (hereinafter referred to as 'the 1989 Convention'), on the accession of the Kingdom of

Spain and the Portuguese Republic to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland and the adjustments made to them by the Convention on the accession of the Hellenic Republic.

TITLE II

Adjustments to the 1968 Convention

Article 2

The following indents shall be inserted in the second paragraph of Article 3 of the 1968 Convention, as amended by Article 4 of the 1978 Convention, Article 3 of the 1982 Convention and Article 3 of the 1989 Convention:

- (a) between the 9th and 10th indents:
- ‘— in Austria: Article 99 of the Law on Court Jurisdiction (*Jurisdiktionsnorm*),’;
- (b) between the 10th and 11th indents:
- ‘— in Finland: the second, third and fourth sentences of the first paragraph of Section 1 of Chapter 10 of the Code of Judicial Procedure (*oikeudenkäymiskaari/rättegångsbalken*),
- in Sweden: the first sentence of the first paragraph of Section 3 of Chapter 10 of the Code of Judicial Procedure (*rättegångsbalken*),’.

Article 3

The following indents shall be inserted in Article 32 (1) of the 1968 Convention, as amended by Article 16 of the 1978 Convention, Article 4 of the 1982 Convention and Article 10 of the 1989 Convention:

- (a) between the 10th and 11th indents:
- ‘— in Austria, to the *Bezirksgericht*,’;
- (b) between the 11th and 12th indents:
- ‘— in Finland, to the *käräjäoikeus/tingsrätt*,
- in Sweden, to the *Svea hovrätt*,’.

Article 4

1. The following indents shall be inserted in Article 37 (1) of the 1968 Convention, as amended by Article 17 of the 1978 Convention, Article 5 of the 1982 Convention and Article 11 of the 1989 Convention:

- (a) between the 10th and 11th indents:
- ‘— in Austria with the *Bezirksgericht*,’;
- (b) between the 11th and 12th indents:
- ‘— in Finland, with the *hovioikeus/hovrätt*,
- in Sweden, with the *Svea hovrätt*,’.

2. The following shall be inserted in Article 37 (2) of the 1968 Convention, as amended by Article 17 of the 1978 Convention, Article 5 of the 1982 Convention and the second paragraph of Article 11 of the 1989 Convention:

- (a) between the fourth and fifth indents:
- ‘— in Austria, in the case of an appeal, by a *Revisionsrekurs* and, in the case of opposition proceedings, by a *Berufung* with the possibility of a revision,’;
- (b) between the fifth and sixth indents:
- ‘— in Finland, by an appeal to *korkein oikeus/högsta domstolen*,
- in Sweden by an appeal to *Högsta domstolen*,’.

Article 5

The following indents shall be inserted in Article 40 (1) of the 1968 Convention, as amended by Article 19 of the 1978 Convention, Article 6 of the 1982 Convention and Article 12 of the 1989 Convention:

- (a) between the 10th and 11th indents:
- ‘— in Austria, to the *Bezirksgericht*,’;
- (b) between the 11th and 12th indents:
- ‘— in Finland, to *hovioikeus/hovrätten*,
- in Sweden, to the *Svea hovrätt*,’.

Article 6

The following indents shall be inserted in Article 41 of the 1968 Convention, as amended by Article 20 of the 1978 Convention, Article 7 of the 1982 Convention and Article 13 of the 1989 Convention:

- (a) between the fourth and fifth indents:
- ‘— in Austria, by a *Revisionsrekurs*,’;
- (b) between the fifth and sixth indents:
- ‘— in Finland, by an appeal to *korkein oikeus/högsta domstolen*,
- in Sweden, by an appeal to *Högsta domstolen*,’.

Article 7

The following shall be inserted at the appropriate places in chronological order in the list of Conventions set out

in Article 55 of the 1968 Convention, as amended by Article 24 of the 1978 Convention, Article 8 of the 1982 Convention and Article 18 of the 1989 Convention:

- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments relating to maintenance obligations, signed at Vienna on 25 October 1957,
- the Convention between the Federal Republic of Germany and Austria on the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed at Vienna on 6 June 1959,
- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments, arbitral awards and authentic instruments in civil and commercial matters, signed at Vienna on 16 June 1959,
- the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970,
- the Convention between the Kingdom of the Netherlands and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at The Hague on 6 February 1963,
- the Convention between France and Austria on the recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at Vienna on 15 July 1966,
- the Convention between Luxembourg and Austria on the recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at Luxembourg on 29 July 1971,
- the Convention between Italy and Austria on the recognition and enforcement of judgments in civil and commercial matters, of judicial settlements and of authentic instruments, signed at Rome on 16 November 1971,
- the Convention between Finland, Iceland, Norway, Sweden and Denmark on the recognition and enforcement of judgments in civil matters, signed at Copenhagen on 11 October 1977,
- the Convention between Austria and Sweden on the recognition and enforcement of judgments in civil matters, signed at Stockholm on 16 September 1982,
- the Convention between Austria and Spain on the recognition and enforcement of judgments, settlements and enforceable authentic instruments in civil and commercial matters, signed at Vienna on 17 February 1984,
- the Convention between Finland and Austria on the recognition and enforcement of judgments in civil matters, signed at Vienna on 17 November 1986.

TITLE III

Adjustments to the Protocol annexed to the 1968 Convention

Article 8

The following shall be substituted for Article V of the Protocol annexed to the 1968 Convention:

'Article V

The jurisdiction specified in Articles 6 (2) and 10 in actions on a warranty or guarantee or in any other third party proceedings may not be resorted to in the Federal Republic of Germany or in Austria. Any person domiciled in another Contracting State may be sued in the courts:

- of the Federal Republic of Germany, pursuant to Articles 68, 72, 73 and 74 of the code of civil procedure (*Zivilprozessordnung*) concerning third-party notices,
- of Austria, pursuant to Article 21 of the code of civil procedure (*Zivilprozessordnung*) concerning third-party notices.

Judgments given in the other Contracting States by virtue of Article 6 (2) or 10 shall be recognized and enforced in the Federal Republic of Germany and in Austria in accordance with Title III. Any effects which judgments given in those States may have on third parties by application of the provisions in the preceding paragraph shall also be recognized in the other Contracting States.'

Article 9

The following shall be added to Article Va of the Protocol annexed to the 1968 Convention:

'In Sweden, in summary proceedings concerning orders to pay (*betalningsföreläggande*) and assistance (*handräckning*), the expression "court" includes the "Swedish enforcement service" (*kronofogdemyndighet*).'

Article 10

The following article shall be added to the Protocol annexed to the 1968 Convention:

'Article Ve:

Arrangements relating to maintenance obligations concluded with administrative authorities or authenticated by them shall also be regarded as authentic instruments within the meaning of the first paragraph of Article 50 of the Convention.'

TITLE IV

Adjustments to the 1971 Protocol

Article 11

The following paragraph shall be added to Article 1 of the 1971 Protocol, as amended by Article 30 of the 1978 Convention, Article 10 of the 1982 Convention and Article 24 of the 1989 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 12

The following indents shall be inserted in Article 2 (1) of the 1971 Protocol, as amended by Article 31 of the 1978 Convention, Article 11 of the 1982 Convention and Article 25 of the 1989 Convention:

(a) between the 9th and 10th indents:

— in Austria, the *Oberste Gerichtshof*, the *Verwaltungsgerichtshof* and the *Verfassungsgerichtshof*;

(b) between the 10th and 11th indents:

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

— in Sweden, *Högsta domstolen*, *Regeringsrätten*, *Arbetsdomstolen* and *Marknadsdomstolen*.'

TITLE V

Transitional provisions

Article 13

1. The 1968 Convention and the 1971 Protocol, as amended by the 1978 Convention, the 1982 Convention, the 1989 Convention and by this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

2. However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III of the 1968 Convention, as amended by the 1978 Convention, the 1982 Convention, the 1989 Convention and this Convention, if jurisdiction was founded upon rules which accorded with the provisions of Title II, as amended, of the 1968 Convention, or with the provisions of a convention which was in force between the State of origin and the State addressed when the proceedings were instituted.

TITLE VI

Final provisions

Article 14

1. The Secretary-General of the Council of the European Union shall transmit a certified copy of the 1968 Convention, of the 1971 Protocol, of the 1978 Convention, of the 1982 Convention and of the 1989 Convention in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Spanish and Portuguese languages to the Governments of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

2. The texts of the 1968 Convention, of the 1971 Protocol, of the 1978 Convention, of the 1982 Convention and of the 1989 Convention, drawn up in the Finnish and Swedish languages, shall be authentic under the same conditions as the other texts of the 1968 Convention, the 1971 Protocol, the 1978 Convention, the 1982 Convention and the 1989 Convention.

Article 15

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

Article 16

1. This Convention shall enter into force on the first day of the third month following the date on which two signatory States, one of which is the Republic of Austria, the Republic of Finland or the Kingdom of Sweden, deposit their instruments of ratification.

2. This Convention shall produce its effects for any other signatory State on the first day of the third month following the deposit of its instrument of ratification.

Article 17

The Secretary-General of the Council of the European Union shall notify the signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

Article 18

This Convention, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all 12 texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union. The Secretary-General shall transmit a certified copy to the Government of each signatory State.

Hecho en Bruselas, el veintinueve de noviembre de mil novecientos noventa y seis.

Udfærdiget i Bruxelles, den niogtyvende november nitten hundrede og seksoghalvfems.

Geschehen zu Brüssel am neunundzwanzigsten November neunzehnhundertsechsunneunzig.

Έγινε στις Βρυξέλλες, στις είκοσι εννέα Νοεμβρίου χίλια εννιακόσια ενενήντα έξι.

Done at Brussels on the twenty-ninth day of November in the year one thousand nine hundred and ninety-six.

Fait à Bruxelles, le vingt-neuf novembre mil neuf cent quatre-vingt-seize.

Arna dhéanamh sa Bhruiséil, an naoú lá is fiche de Shamhain, míle naoi gcéad nócha a sé.

Fatto a Bruxelles, addì ventinove novembre millenovecentonovantasei.

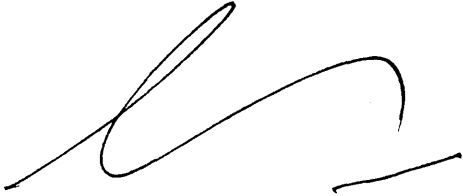
Gedaan te Brussel, de negentwintigste november negentienhonderd zesennegentig.

Feito em Bruxelas, em vinte e nove de Novembro de mil novecentos e noventa e seis.

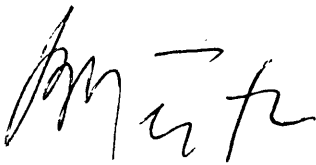
Tehty Brysselissä kahdentenkymmenentenäyhdeksäntenä päivänä marraskuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäkuusi.

Som skedde i Bryssel den tjugonionde november nittonhundraiontiosex.

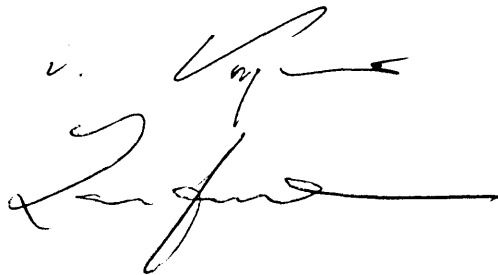
Pour le gouvernement du royaume de Belgique
Voor de Regering van het Koninkrijk België
Für die Regierung des Königreichs Belgien



For regering for Kongeriget Danmark



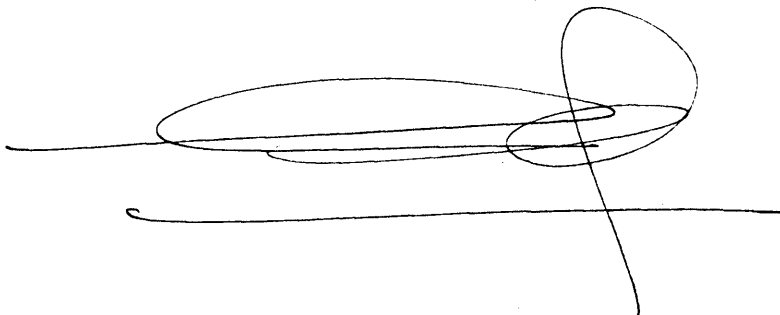
Für die Regierung der Bundesrepublik Deutschland



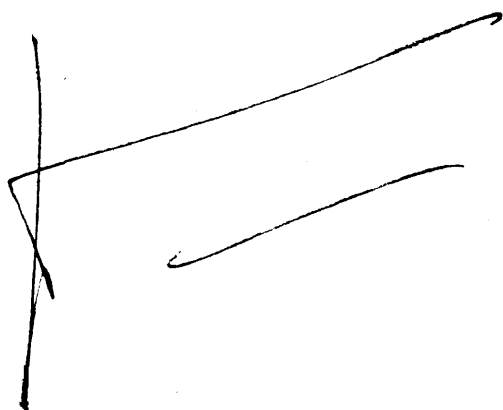
Για την κυβέρνηση της Ελληνικής Δημοκρατίας



Por el Gobierno del Reino de España



Pour le gouvernement de la République française



Thar ceann Rialtas na hÉireann
For the Government of Ireland



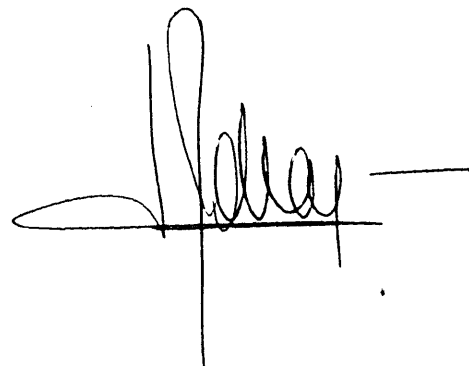
Per il governo della Repubblica italiana



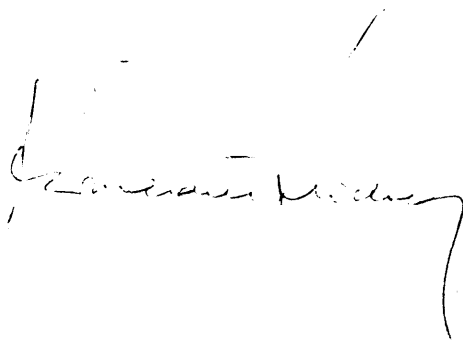
Pour le gouvernement du Grand-Duché de Luxembourg



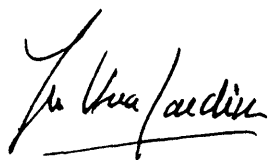
Voor de Regering van het Koninkrijk der Nederlanden



Für die Regierung der Republik Österreich

A handwritten signature in black ink, appearing to read 'Franz Schüssel', with a long horizontal stroke extending to the right.

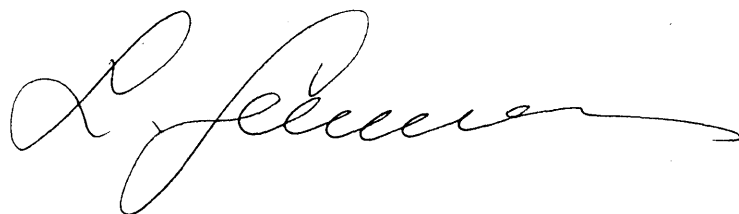
Pelo Governo da República Portuguesa

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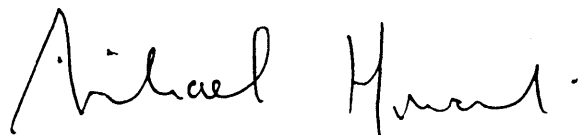
Suomen hallituksen puolesta
På finska regeringens vägnar

A handwritten signature in black ink, appearing to read 'Väinö Piipponen', with a long horizontal stroke extending to the right.

På svenska regeringens vägnar

A handwritten signature in black ink, appearing to read 'Göran Persson', with a long horizontal stroke extending to the right.

For the Government of the United Kingdom of Great Britain and Northern Ireland

A handwritten signature in black ink, appearing to read 'Michael Howard', with a long horizontal stroke extending to the right.