

JUDGMENT OF THE COURT (FOURTH CHAMBER)
15 NOVEMBER 1983 ¹

Ferdinand M. J. J. Duijnstee
v Lodewijk Goderbauer
(reference for a preliminary ruling
from the Hoge Raad der Nederlanden)

(Brussels Convention)

Case 288/82

1. *Convention on jurisdiction and the enforcement of judgments — Object — Primacy over domestic law*
 2. *Convention on jurisdiction and the enforcement of judgments — Review of jurisdiction and of admissibility — Exclusive jurisdiction of the courts of a Contracting State — Obligation on a court in another Contracting State to declare of its own motion that it has no jurisdiction — Scope*
(Convention of 27 September 1968, Arts 16 and 19)
 3. *Convention on jurisdiction and the enforcement of judgments — Exclusive jurisdiction — Proceedings “concerned with the registration or validity of patents” — Meaning — Independent interpretation*
(Convention of 27 September 1968, Art. 16 (4))
 4. *Convention on jurisdiction and the enforcement of judgments — Exclusive jurisdiction — Proceedings “concerned with the registration or validity of patents” — Meaning — Limits*
(Convention of 27 September 1968, Art. 16 (4))
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1. The Convention of 27 September 1968, which seeks to determine the jurisdiction of the courts of the Contracting States in civil matters, must override national provisions which are incompatible with it.
 2. Article 19 of the Convention of 27 September 1968 requires the national court to declare of its own motion that it has no jurisdiction whenever it finds that a court of another Contracting State has exclusive

¹ — Language of the Case: Dutch.

- jurisdiction under Article 16 of the Convention, even in an appeal in cassation where the national rules of procedure limit the court's reviewal to the grounds raised by the parties.
3. The term "proceedings concerned with the registration or validity of patents" contained in Article 16 (4) of the Convention of 27 September 1968 must be regarded as an independent concept intended to have uniform application in all the Contracting States.
4. The term "proceedings concerned with the registration or validity of patents" does not include a dispute between an employee for whose invention a patent has been applied for or obtained and his employer, where the dispute relates to their respective rights in that patent arising out of the contract of employment.

In Case 288/82

REFERENCE to the Court under the Protocol of 31 June 1971 on the Interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters from the Hoge Raad der Nederlanden [Supreme Court of the Netherlands] for a preliminary ruling in the appeal in cassation pending before that court between

FERDINAND M. J. J. DUIJNSTEE, liquidator in the winding-up of BV Schroef-boutenfabriek,

and

LODEWIJK GODERBAUER,

on the interpretation of Articles 19 and 16 (4) of the Convention,

THE COURT (Fourth Chamber)

composed of: J. Mertens de Wilmars, President, T. Koopmans and K. Bahlmann, Presidents of Chambers, and A. O'Keeffe and G. Bosco, Judges,

Advocate General: S. Rozès
Registrar: P. Heim

gives the following