

Case C-474/93

Hengst Import BV
v
Anna Maria Campese

(Reference for a preliminary ruling
from the Arrondissementsrechtbank, Zwolle)

(Brussels Convention — Article 27(2) —
Concept of document instituting the proceedings or equivalent document)

Opinion of Advocate General Jacobs delivered on 4 May 1995	I - 2115
Judgment of the Court (Third Chamber), 13 July 1995	I - 2122

Summary of the Judgment

Convention on Jurisdiction and the Enforcement of Judgments — Recognition and enforcement — Grounds for refusal — Failure duly and timeously to serve the document instituting the proceedings on the absent defendant — Concept of document instituting the proceedings or equivalent document — Document enabling the defendant to assert his rights before an enforceable judgment is given — Order for payment under Italian law served jointly with the plaintiff's application — Included

(Convention of 27 September 1968, Art. 27(2))

The term 'document instituting the proceedings or equivalent document' within the meaning of Article 27(2) of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, means the document or documents which must be duly and timely served on the defendant in order to enable him to assert his rights before an

enforceable judgment is given in the State of origin. The *decreto ingiuntivo* within the meaning of Book IV of the Italian Code of Civil Procedure (Articles 633 to 656), together with the application instituting the proceedings, must therefore be regarded as 'the document which instituted proceedings or ... an equivalent document' within the meaning of that provision, since their joint service starts time running for the defendant to oppose the order and since the plaintiff cannot obtain an enforceable order before the expiry of that time-limit.