

No. 6530

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**UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND  
and  
AUSTRIA**

**Convention providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters. Signed at Vienna, on 14 July 1961**

*Official texts: English and German.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 20 February 1963.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
AUTRICHE**

**Convention relative à la reconnaissance et à l'exécution réciproques des jugements en matière civile et commerciale. Signée à Vienne, le 14 juillet 1961**

*Textes officiels anglais et allemand.*

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 20 février 1963.*

No. 6530. CONVENTION<sup>1</sup> BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF AUSTRIA PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT VIENNA, ON 14 JULY 1961

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Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as "Her Britannic Majesty") and the Federal President of the Republic of Austria ;

Desiring to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters ;

Having appointed for that purpose as their Plenipotentiaries :

Her Britannic Majesty

For the United Kingdom of Great Britain and Northern Ireland :

The Right Honourable Edward Richard George Heath, M.B.E., M.P., Lord Privy Seal,

The Federal President of the Republic of Austria

For the Republic of Austria :

Herrn Dr. Bruno Kreisky, Federal Minister for Foreign Affairs ;

Herrn Dr. Christian Broda, Federal Minister for Justice,

Who, having communicated to each other their Full Powers, found in good and due form, have agreed as follows :

GENERAL

*Article I*

For the purposes of the present Convention :

(1) The words "territory of one High Contracting Party" and the words "territory of the other High Contracting Party" shall mean either :

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<sup>1</sup> Came into force on 14 July 1962, one month after the date of the exchange of the instruments of ratification which took place at London on 14 June 1962, in accordance with article XIV.

- (a) the United Kingdom (England and Wales, Scotland and Northern Ireland) and any territories to which the Convention shall have been extended under Article XIII or,
- (b) the Republic of Austria.

(2) The words “superior court” mean :

- (a) in the case of the United Kingdom, the House of Lords ; for England and Wales, the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and of Durham ; for Scotland, the Court of Session and the Sheriff Court ; and for Northern Ireland, the Supreme Court of Judicature ; and
- (b) in the case of the Republic of Austria, the Landesgerichte, the Kreisgerichte, the Handelsgerichte, the Oberlandesgerichte and the Oberste Gerichtshof.

All other courts in these territories shall be deemed to be “inferior courts” for the purposes of the present Convention.

(3) The words “original court” mean in relation to any judgment the court by which the judgment was given ; and the words “court applied to”, the court in which it is sought to obtain recognition of a judgment or to which an application for the registration of a judgment or for the grant of execution (*Bewilligung der Exekution*) is made.

(4) The word “judgment” means any decision of a court, however described (judgment, order and the like) by which the rights of the parties are finally determined, and shall include *gerichtliche Vergleiche*, but shall not include orders by which only a provisional security is granted (*einstweilige Verfügungen*). The rights of the parties shall be deemed to be finally determined notwithstanding that an appeal may be pending against the judgment or that it may still be subject to appeal in the courts of the country of the original court.

(5) The words “judgments in civil and commercial matters” shall not be deemed to include judgments given in proceedings for the recovery of any form of taxation or under which a fine or other penalty is payable, but shall be deemed to include judgments given by a court in any criminal proceedings for the payment of a sum of money in respect of damages to an injured party.

(6) The words “judgment debtor” mean the person against whom the judgment was given in the original court and include any person against whom the judgment is enforceable under the law of the country of the original court ; and the words “judgment creditor”, the person in whose favour the judgment was given, and include any person entitled to avail himself of the judgment.

(7) The word "appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or, in the case of a judgment given in the territory of Her Britannic Majesty, a stay of execution.

### *Article II*

(1) Judgments in civil and commercial matters given by a superior court in the territory of one High Contracting Party, other than judgments given on appeal in proceedings in which an inferior court gave judgment at first instance, shall be recognised and enforced in the territory of the other High Contracting Party in accordance with the provisions of Articles III to X of the present Convention.

(2) Nothing in the present Convention shall be deemed to preclude the recognition and enforcement in the territory of one High Contracting Party, in accordance with the law for the time being in force in the country concerned, of judgments pronounced by any court in the territory of the other High Contracting Party, being judgments to which the present Convention does not apply.

## RECOGNITION OF JUDGMENTS

### *Article III*

(1) The judgments referred to in paragraph (1) of Article II of the present Convention given in the territory of one High Contracting Party shall, subject to the provisions of paragraphs (2) and (3) of this Article, be recognised in the territory of the other High Contracting Party, unless either :

- (a) the court applied to is satisfied of the existence of any of the following objections to the judgment :
1. in the case in question, the jurisdiction of the original court is not recognised under the provisions of Article IV ;
  2. the judgment was obtained by fraud ;
  3. the recognition of the judgment would be contrary to public policy in the country of the court applied to ;
  4. the judgment debtor, being a defendant in the proceedings in the original court, was a person who, under public international law, was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court ;
  5. the judgment is sought to be enforced against a person who, under public international law, is entitled to immunity from the jurisdiction of the court applied to ; or

(b) the judgment debtor satisfies the court applied to :

1. of the existence of any of the objections mentioned in the foregoing sub-paragraph ; or
2. that the judgment was given by default and the judgment debtor, being the defendant in the proceedings in the original court, did not actually acquire knowledge of those proceedings at all, or did not acquire it in reasonably sufficient time to enable him to defend. In all cases where it is proved that notice of the proceedings has been duly served on the defendant in conformity with the provisions of Article 3 or sub-paragraph (1) and (2) of paragraph (a) of Article 4 of the Convention between the United Kingdom and Austria regarding legal proceedings in civil and commercial matters signed on March 31, 1931,<sup>1</sup> the court applied to shall accept such service as conclusive evidence that the defendant actually acquired knowledge of the proceedings.

(2) Where the judgment debtor satisfies the court applied to that proceedings by way of appeal have been instituted against the judgment in the country of the original court, or that such proceedings have not been actually instituted, but that he is entitled and intends to appeal, the court applied to shall grant or withhold recognition of the judgment in accordance with the law of its country.

(3) Where the law of the country of the court applied to requires recognition to be withheld from a judgment on the ground that a previous judgment has been given in respect of the same cause of action as between the same parties by a court of competent jurisdiction, recognition shall be withheld.

(4) Recognition shall not be refused merely on the ground that the original court has applied, in the choice of the system of law applicable to the case, rules of private international law different from those observed by the court applied to.

#### *Article IV*

(1) For the purposes of sub-paragraph (a) 1 of paragraph (1) of Article III the courts of the country of the original court shall, subject to the provisions of paragraphs (2) to (5) of this Article, be recognised as possessing jurisdiction in all cases :

- (a) if the judgment debtor, being a defendant in the proceeding in the original court, was, at the time when the proceedings were instituted, resident in, or being a company or other body corporate had its registered or head office in, the country of that court ; or

<sup>1</sup> League of Nations, *Treaty Series*, Vol. CXXVII, p. 167 ; Vol. CXXXIV, p. 435 ; Vol. CLVI, p. 242, and Vol. CLX, p. 399.