

N° 3923.

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**SUÈDE ET SUISSE**

Convention relative à la reconnaissance et à l'exécution des décisions judiciaires et sentences arbitrales. Signée à Stockholm, le 15 janvier 1936.

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**SWEDEN  
AND SWITZERLAND**

Convention regarding the Recognition and Enforcement of Judicial Decisions and Arbitral Awards. Signed at Stockholm, January 15th, 1936.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 3923. — CONVENTION <sup>2</sup> BETWEEN SWEDEN AND SWITZERLAND REGARDING THE RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS AND ARBITRAL AWARDS. SIGNED AT STOCKHOLM, JANUARY 15TH, 1936.

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*French official text communicated by the Swiss Federal Council. The registration of this Convention took place July 1st, 1936.*

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THE SWISS FEDERAL COUNCIL  
and

HIS MAJESTY THE KING OF SWEDEN,

Being desirous of regulating the relations between the two countries as regards the recognition and enforcement of judicial decisions and arbitral awards, have resolved to conclude a Convention on this matter and have appointed for this purpose as their Plenipotentiaries :

THE SWISS FEDERAL COUNCIL :

Monsieur Charles LARDY, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Stockholm ;

HIS MAJESTY THE KING OF SWEDEN :

Monsieur R. J. SANDLER, His Minister for Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

*Article 1.*

The force of decisions in contentious matters, rendered in one of the contracting States in civil cases, including those rendered on points of civil law in a criminal case, shall be recognised in the other State, provided the said decisions comply with the conditions specified in the following Articles.

*Article 2.*

Within the meaning of the present Convention, decisions relating to the merits of a dispute rendered by the ordinary courts shall be deemed to be judicial decisions. The same shall apply to sentences relating to the costs and expenses of the case rendered in pursuance of the decision on the merits of the case. The Swedish Supreme Executive Authorities (*Oeverexekutor*), in so far as

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<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Berne, April 30th, 1936. Came into force July 1st, 1936.

they are called upon to decide questions relating to debts acknowledged in writing (*lagsökning*), and also Swiss commercial courts and conciliation courts, shall likewise be regarded as ordinary courts.

Judicial compromises, in so far as their effects are concerned, shall be assimilated to judicial decisions.

#### Article 3.

Decisions relating to judicial separation, separate maintenance and divorce shall be deemed to be decisions rendered in contentious cases, even if they were rendered at the request of the persons concerned. On the other hand, decisions relating to guardianship and disability shall in no case be regarded as decisions rendered in contentious cases.

#### Article 4.

The recognition of the force of the decision shall be subject to the following conditions :

- (1) That the decision be that of a court having jurisdiction in accordance with the provisions of Article 5 ;
- (2) That the recognition of the decision be not clearly incompatible with the public order of the State where the decision is sought to be relied upon ;
- (3) That in the case of a decision rendered in respect of personal status, family rights or succession rights, it be not based on a law the relevant provisions of which are contrary to those of the law applicable in accordance with the private international law of the State where the decision is sought to be relied upon ;
- (4) That the decision shall have acquired the force of *res judicata* under the law of the State in which it was rendered ;
- (5) That in the event of judgment by default, the writ or summons on which proceedings were begun shall have been duly served on the party failing to appear, and delivered either into his own hands or to his authorised representative.

#### Article 5.

The jurisdiction of courts of the State in which the decision was rendered shall be recognised for the purposes of the present Convention in the following cases :

- (1) When, at the time the action was brought, the defendant had his *de facto* domicile, or, if the defendant is not a natural person, its headquarters in that State, it being understood that the *de facto* domicile is the place where the defendant resides with the intention to settle there ;
- (2) When, by express convention, the defendant accepted the jurisdiction of the court which rendered the decision ;
- (3) When the defendant pleaded the merits of the dispute without reservation ;
- (4) In respect of counter-claims connected with the principal claim ;
- (5) When the defendant, having a commercial or industrial establishment, or a branch, in the territory of the State in which the decision was rendered, has been summoned in that State in respect of a dispute relating to the working of such establishment or branch ;
- (6) When the defendant, having in the territory of the State in which the decision was rendered a representative whom he was required to have under the law of that State, has been summoned therein, in respect of a dispute relating to his activities in that State ;

(7) When the decision relates to obligations resulting from an illicit act committed by the defendant in the State in which the decision was rendered and the summons has been delivered into his own hands during his residence in that State, it being understood that obligations resulting from accidents caused by the use of means of transport of any kind will be assimilated to those obligations ;

(8) When the decision was rendered by a court provided for in an international convention which does not itself contain any provisions regarding the recognition and enforcement of the decision.

The provisions of the foregoing paragraph shall not apply to cases relating to personal status, family rights or succession rights. The jurisdiction of the court of the State in which the decision was rendered shall be recognised in such matters when, under similar conditions, the court of the State where it is sought to be relied upon would have been competent.

#### Article 6.

The authorities of the State where the decision is sought to be relied upon shall simply consider whether the conditions referred to in the previous Articles have been fulfilled. In considering this question they shall not be bound by the findings of the decision.

#### Article 7.

The judicial authorities of one of the two States shall abstain from hearing disputes brought before them when, to their knowledge, such disputes are already pending before a court of the other State, provided the latter court has jurisdiction under the terms of the present Convention.

#### Article 8.

Decisions rendered in one of the contracting States the authority of which must be recognised in the territory of the other State in virtue of the provisions of the foregoing Articles shall, at the request of one of the Parties, be enforced in the other State.

#### Article 9.

In Switzerland, the question of jurisdiction and procedure in respect of enforcement by process shall, if the decision is to be enforced in order to obtain a sum of money or security, be governed by the Federal legislation concerning prosecution for debt and bankruptcy (Federal Law of April 11th, 1889, and supplements), and in other cases by the provisions relating to procedure of the Canton in which the enforcement is to take place.

In Sweden, the request for enforcement shall be addressed to the Stockholm Court of Appeal (*Svea hovrätt*).

#### Article 10.

The party claiming the enforcement of a decision must produce :

- (1) The original decision or an authentic copy ;
- (2) A document to show that the decision has acquired the force of *res judicata* ;
- (3) The judicial records or other documents to prove that the conditions stipulated in Article 5, paragraph 1, have been fulfilled ;

(4) In the case of a judgment by default, the original or a certified true copy of the documents proving that the defaulting party was summoned in accordance with the provisions of Article 4, paragraph 5, or, as the case may be, of Article 5, paragraphs 1 and 7.

If the request for enforcement relates to a compromise, it shall be accompanied by a copy of the record, certified correct by the competent authority, and a certificate to the effect that the compromise has been concluded before or confirmed by a court and is enforceable in the State in which it was reached.

The foregoing documents shall :

In Sweden, be drawn up or legalised by the Chancellory of the Grand Governor of Stockholm or by a provincial administration ; and

In Switzerland, be drawn up by the competent authorities and legalised by the Federal Chancellory.

All the documents to be produced shall be accompanied by a translation in the official language of the authority applied to, certified correct either by a diplomatic or consular agent of one or other of the contracting States or by a public translator of the country where the decision is sought to be relied upon.

#### Article 11.

The present Convention shall not apply to decisions and compromises :

(1) Relating to bankruptcy or composition, including the invalidation of the debtor's contracts ;

(2) Concerning any right *in rem* relating to immovable property situated outside the State in which the decision was rendered and to the obligation to take action in respect of such rights or the consequences resulting from the failure to comply with such obligation ; the Convention shall, however, be applicable to decisions and compromises relating to family and succession rights.

#### Article 12.

The Convention shall not apply to decisions rendered or compromises reached before its coming into force.

#### Article 13.

The recognition and enforcement in one of the two States of arbitral awards rendered in the other State shall be settled by the Convention<sup>1</sup> for the Enforcement of Arbitral Awards concluded at Geneva on September 26th, 1927. Recognition and enforcement shall not, however, be subject to the conditions laid down in Article 1, paragraph 1, of the said Convention.

Article 9 and Article 10, last paragraph, of the present Convention shall apply to the procedure for the enforcement of arbitral awards.

#### Article 14.

The present Convention shall not affect the provisions of agreements governing jurisdiction and the enforcement of judgments in special matters.

#### Article 15.

The present Convention shall be ratified by the Swiss Federal Council and by His Majesty the King of Sweden, with the approval of the Riksdag, and the ratifications shall be exchanged at Berne as soon as possible.

<sup>1</sup> Vol. XCII, page 301 ; Vol. XCVI, page 205 ; Vol. C, page 259 ; Vol. CIV, page 526 ; Vol. CVII, page 528 ; Vol. CXI, page 414 ; Vol. CXVII, page 303 ; Vol. CXXX, page 457 ; and Vol. CLVI, page 210, of this Series.

It shall come into force on January 1st or July 1st following the expiry of a period of two months after the date of the exchange of ratifications and shall remain in force until January 1st or July 1st following the expiry of a period of one year after the date of its denunciation by one of the contracting States.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Stockholm, this 15th day of January, 1936.

*(Signed)* Charles L. E. LARDY.

*(Signed)* Rickard SANDLER.