

No. 5972

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
FEDERAL REPUBLIC OF GERMANY**

**Convention for the reciprocal recognition and enforcement  
of judgments in civil and commercial matters (with  
Protocol of signature). Signed at Bonn, on 14 July 1960**

*Official texts: English and German.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 20 November  
1961.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention relative à la reconnaissance et à l'exécution  
réciproque des jugements en matière civile et commer-  
ciale (avec Protocole de signature). Signée à Bonn,  
le 14 juillet 1960**

*Textes officiels anglais et allemand.*

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 20 novembre  
1961.*

No. 5972. CONVENTION<sup>1</sup> BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT BONN, ON 14 JULY 1960

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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, and the President of the Federal Republic of Germany,

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

Have resolved to conclude a Convention for this purpose and to that end have appointed as their Plenipotentiaries :

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 Majesty The Queen) :

For the United Kingdom of Great Britain and Northern Ireland :

His Excellency Sir Christopher Eden Steel, G.C.M.G., M.V.O., Her Majesty's Ambassador Extraordinary and Plenipotentiary at Bonn,

The President of the Federal Republic of Germany :

Dr. Albert Hilger van Scherpenberg, State-Secretary of the Federal Foreign Office, and Professor Dr. Arthur Bülow, *Ministerialdirigent* in the Federal Ministry of Justice ;

who, having communicated to each other their respective full powers found in good and due form, have agreed as follows :

*Article I*

For the purposes of the present Convention :

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

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<sup>1</sup> Came into force on 15 July 1961, one month after the exchange of the instruments of ratification which took place at London on 14 June 1961, in accordance with article XIII.

- (a) in relation to Her Majesty The Queen, the United Kingdom (England and Wales, Scotland and Northern Ireland) and any territories to which the Convention may have been extended under Article XII, and
- (b) in relation to the President of the Federal Republic of Germany, the territory of the Federal Republic of Germany.

(2) The words "superior court" shall mean :

- (a) in the case of the United Kingdom, the House of Lords ; and 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 Durham ; for Scotland, the Court of Session and the Sheriff Courts ; and for Northern Ireland, the Supreme Court of Judicature ; and
- (b) in the case of the Federal Republic of Germany, the Landgerichte, the Oberlandesgerichte, the Bayerische Oberste Landesgericht and the Bundesgerichtshof.

All other courts in these territories shall be "inferior courts" for the purposes of this Convention.

(3) The word "judgments" shall mean all decisions of a court, however described (i.e., judgments, orders and the like), by which the rights of the parties are finally decided, and shall include *gerichtliche Vergleiche*, but shall not include orders for anticipatory seizure (*Arrestbefehle*), or other decisions by which only a provisional security is obtained for a claim or other interlocutory orders. The rights of the parties shall be deemed to be finally decided, 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.

(4) The words "original court" shall mean, in relation to any judgment, the court by which such judgment was given ; and the words "court or authority applied to", the court or authority in which it is sought to obtain recognition of a judgment or to which an application for the enforcement of a judgment is made.

(5) The words "judgment debtor" shall mean the person against whom the judgment was given in the original court and include any person who has succeeded to the liability under the judgment by 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 his successors and assigns.

(6) 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 (state or municipal) or for the recovery of penalties, but shall be deemed to include judgments given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party.

(7) The word "appeal" shall include any proceedings by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution.

(8) The words "action *in personam*" shall not be deemed to include any action in matters of family law or status (including divorces or other proceedings in matrimonial causes) or any proceedings in matters of succession or the administration of the estates of deceased persons.

### *Article II*

(1) Judgments pronounced by a superior court in the territory of one High Contracting Party, other than judgments given on appeal from inferior courts, shall, whatever the nationality of the judgment creditor or debtor, be recognised and enforced in the territory of the other in the cases and upon the conditions laid down in Articles III to IX inclusive of the present Convention.

(2) Nevertheless the provisions of the present Convention shall not apply to judgments in bankruptcy proceedings or proceedings for the winding up of companies or other bodies corporate.

(3) 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 municipal 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, or judgments given in circumstances where the provisions of the present Convention do not require such recognition or enforcement.

### *Article III*

(1) Judgments in civil and commercial matters, given after the date of the entry into force of the present Convention by any superior court in the territory of one High Contracting Party, shall be recognised in the territory of the other in all cases where there is no adjournment of the decision on the recognition of the judgment under paragraph (2) of this Article and where no objection to the judgment can be established on any of the grounds hereinafter enumerated : that is to say, unless :

(a) in the case in question, the jurisdiction of the original court is not recognised under the provisions of Article IV ;

(b) the judgment was given by default, and the judgment debtor did not appear in the proceedings and satisfies the court or authority applied to that he did not actually acquire knowledge of the proceedings in reasonably sufficient time to act upon it. It is understood that in all cases where it is proved that notice of the pro-

ceedings has been duly served on the defendant in conformity with the provisions of Article 3 or 5 of the Convention signed between the United Kingdom and Germany on March 20, 1928,<sup>1</sup> it shall be deemed to be conclusive evidence that the defendant actually acquired knowledge of the proceedings ;

(c) the judgment is one which, for reasons of public policy, cannot be recognised by the court or authority applied to, including cases where the judgment :

- (i) is in respect of a cause of action which had already, at the date of the judgment of the original court, as between the same parties, formed the subject of another judgment which is recognised under the law of the country of the court or authority applied to as final and conclusive ;
- (ii) has, in the opinion of the court or authority applied to, been obtained by fraud ;
- (iii) was given against a person, defendant in the proceedings before the original court who, in the opinion of the court or authority applied to, under the rules of public international law was entitled to immunity from the jurisdiction of the original court and did not submit to the jurisdiction of the original court ;
- (iv) is sought to be enforced against a person who is entitled to immunity from the jurisdiction of the court or authority applied to under the rules of public international law.

(2) Where the judgment debtor satisfies the court or authority 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 the time for appeal has not elapsed under the law of the country of the original court, the court or authority applied to may nevertheless recognise the judgment or may, if the judgment debtor makes an application to this effect, refuse to recognise the judgment or adjourn its decision on the recognition of the judgment so as to allow the judgment debtor a reasonable opportunity of completing or of instituting such proceedings.

(3) The recognition of a judgment 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 or authority applied to.

(4) The recognition of a judgment means that such judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action between

<sup>1</sup> League of Nations, *Treaty Series*, Vol. XC, p. 287 ; Vol. XCII, p. 413 ; Vol. C, p. 252 ; Vol. CIV, p. 523 ; Vol. CVII, p. 525 ; Vol. CXXII, p. 356 ; Vol. CXXX, p. 451 ; Vol. CXXXIV, p. 408 ; Vol. CLVI, p. 208 ; Vol. CLX, p. 348, and Vol. CXC VII, p. 301.

the parties (judgment creditor and judgment debtor) and as to such matter shall constitute a defence in any further action between them in respect of the same cause of action.

*Article IV*

(1) For the purposes of sub-paragraph (a) of paragraph (1) of Article III the courts of the country of the original court shall be recognised as possessing jurisdiction :

- (a) in the case of a judgment given in an action *in personam* :
- (i) where the judgment debtor was a plaintiff or counter-claimant in the proceedings in the original court ;
  - (ii) where the judgment debtor, being a defendant in the proceedings in the original court, submitted to the jurisdiction by voluntarily appearing in the proceedings. It is understood that the expression "voluntarily appearing in the proceedings" does not include an appearance merely for the purpose of protecting property situated in the country of the original court from seizure, or of obtaining the release of property seized, or for the purpose of contesting the jurisdiction of the original court ;
  - (iii) where before the commencement of the proceedings the judgment debtor, being a defendant in the proceedings in the original court, had agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of the courts of the country of the original court, or of the original court ;
  - (iv) where the judgment debtor, being a defendant in the original court, was, at the time when the proceedings were instituted, resident in the country of the original court or, being a company or other body corporate, had its principal place of business in the country of the original court ;
  - (v) where the judgment debtor, being a defendant in the original court, had either a commercial establishment or a branch office within the country of the original court, and the proceedings were in respect of a transaction effected through, or at, such establishment or branch office ;
- (b) in the case of a judgment given in an action of which the subject matter was immovable property or in an action in rem of which the subject matter was movable property, if such property at the time of the commencement of the proceedings in the original court was situated within the country of the original court ;

(c) in the case of a judgment given in an action other than any such action as is mentioned in sub-paragraphs (a) and (b) of this paragraph (such as judgments in

matters of family law or status, including divorces or other judgments in matrimonial causes, judgments in matters of succession or the administration of the estates of deceased persons), if the jurisdiction of the original court is recognised by the law observed by the court or authority applied to.

(2) The jurisdiction of the original court need not be recognised if the subject matter of the proceedings was immovable property outside the country of the original court.

(3) The jurisdiction of the original court need not be recognised in the cases specified in sub-paragraphs (a) (iv), (a) (v) and (b) of paragraph (1) of this Article, if the judgment debtor satisfies the court or authority applied to that the bringing of the proceedings in the original court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of the original court.

(4) Recognition of the jurisdiction of the original court shall not be refused on the ground that the original court had no jurisdiction under the law of its own country, if under the law of the country of the original court the judgment is conclusive unless and until the proper proceedings are taken to set it aside.

#### *Article V*

(1) Judgments, to which the present Article applies, given by a superior court in the territory of one High Contracting Party shall be enforced by the courts in the territory of the other High Contracting Party in the manner and upon the conditions set out in Articles VI to IX inclusive :

provided that, 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 the time for appeal has not elapsed under the law of the country of the original court, such judgments need not be enforced and the court applied to may take such measures with regard thereto as are permitted by its own law.

- (2) The judgments to which the present Article applies are judgments :
- (a) given in civil or commercial matters after the date of the coming into force of the present Convention ;
  - (b) which are capable of being executed in the country of the original court ;
  - (c) whereby a definite sum of money is made payable, including judgments for the payment of costs in civil or commercial matters ;

(d) to the recognition of which none of the objections set out in Article III (read in conjunction with Article IV) can be established.

(3) If the amount of the costs to be paid under a judgment is not fixed by the judgment itself but by a separate order, such order shall be deemed to be part of the judgment for the purposes of this Convention.

#### Article VI

(1) In order that any judgment of a court in the territory of the Federal Republic of Germany should be enforced in the United Kingdom, an application by a judgment creditor for its registration should be made :

- (a) in England and Wales to the High Court of Justice,
  - (b) in Scotland to the Court of Session,
  - (c) in Northern Ireland to the Supreme Court of Judicature,
- in accordance with the procedure of the court applied to.

(2) The application for registration should be accompanied by :

- (a) a certified copy of the judgment issued by the original court including the reasons therefor, or, where such reasons are not available, being accompanied by a document issued by the original court containing full particulars as regards the proceedings and the causes of action in respect of which the judgment was given, and
- (b) a certificate issued by an officer of the original court that it is capable of execution in the country of the original court.

(3) The certified copy and certificate referred to in paragraph (2) of this Article shall be accepted by the court applied to without requiring further legalisation, but translations of such documents certified by a sworn translator or by a diplomatic or consular officer of either High Contracting Party shall be provided.

#### Article VII

(1) In order that any judgment of a court in the territory of Her Majesty The Queen should be enforced in the territory of the Federal Republic of Germany, an application for an executory declaration should be duly made in the Federal Republic of Germany to the *Landgericht* in whose jurisdiction the judgment debtor resides or possesses property, in accordance with the procedure of the court applied to.



(2) The application for the grant of an executory declaration should be accompanied by :

- (a) a certified copy of the judgment issued by the original court, and
- (b) a document issued by the original court containing full particulars as regards the proceedings and the causes of action in respect of which the judgment was given.

(3) Any judgment in respect of which a certified copy has been issued by the original court shall be deemed to have been a judgment which was capable of execution in the country of the original court at the time the certificate was issued.

(4) The certified copy and document, referred to in paragraph (2) of this Article, shall be accepted by the court applied to without requiring further legalisation, but translations thereof certified by a sworn translator or by a diplomatic or consular officer of either High Contracting Party shall be provided.

#### *Article VIII*

(1) The registration of a judgment under Article VI, or the grant of an executory declaration under Article VII, shall be refused, or if granted shall be set aside, if the judgment debtor satisfies the court applied to :

- (a) that, after the original court had given its judgment, the debt due under the judgment whose enforcement is sought had been satisfied by payment or otherwise, or
- (b) that the right to enforce the judgment is not vested in the person by whom the application is made.

(2) If upon such application being made, it is found by the court applied to :

- (a) that the debt due under the judgment whose enforcement is sought has become partly satisfied by payment or otherwise, or
- (b) that the judgment whose enforcement is sought is one under which sums of money are payable in respect of different heads of claim and that reasons for the refusal of the registration or executory declaration exist in respect of some, but not of all, the heads of claim,

registration or executory declaration shall be granted, as the case may be :

- (i) in respect of the unsatisfied balance, or

- (ii) in respect of the sums of money due under those portions of the judgment to the enforcement of which no objection based on the provisions of Article V (read in conjunction with Article III and IV) is established.

*Article IX*

(1) Where an application is duly made for the registration of a judgment under Article VI or for a grant of an executory declaration under Article VII, the court applied to shall not entertain any objections to the grant of the application other than objections based on the provisions of Article V (read in conjunction with Articles III and IV) or an objection based on the grounds specified in Article VIII, and shall grant the application provided that none of the said objections have been shown to exist.

(2) The procedure for the registration of a judgment under Article VI and the procedure for the grant of an executory declaration under Article VII, shall be simple and summary. No security for costs shall be required of any person making application for such registration, or for the grant of an executory declaration. A period of not less than six years running from the date of the judgment of the original court, if no appeal has been brought to a higher court, or from the date of the judgment of the highest court appealed to, if an appeal has been brought, shall be allowed for the purpose of making any application for the registration or the grant of an executory declaration.

(3) Where a judgment is registered under Article VI or where an executory declaration is granted in respect of a judgment under Article VII, such judgment shall carry in respect of the interval between the date of the judgment of the original court and the date of the registration or executory declaration, interest at the rate (if any) specified in the judgment or in any certificate of the original court accompanying the judgment. As from the date of the registration or of the executory declaration, interest shall be allowed at 4% per annum on the total sum (principal and interest) in respect of which the registration or executory declaration is granted.

(4) Where any judgment is registered under Article VI by a court in the territory of Her Majesty The Queen, or where an executory declaration is granted under Article VII, such judgment shall, as from the date of registration or executory declaration, be, as regards all questions relating to its execution in the country of the court applied to, in the same position as a judgment originally given by the court applied to.

(5) Where under a judgment a sum of money is payable, which is expressed in a currency other than that of the country of the court applied to, the law of the country of the court applied to shall determine if, and if so in what manner and in what circumstances, the amount payable under the judgment may or shall be converted into the currency of the country of the court applied to for the purposes of the satisfaction or enforcement of the judgment.

*Article X*

The High Contracting Parties agree that any difficulties which may arise in connexion with the interpretation or application of this Convention shall be settled through the diplomatic channel. It is, however, understood that the decisions of their respective courts cannot be re-opened.

*Article XI*

(1) The present Convention shall also apply to *Land* Berlin provided that the Government of the Federal Republic of Germany has not delivered a contrary declaration to the Government of the United Kingdom of Great Britain and Northern Ireland within three months from the date of entry into force of the Convention.

(2) Upon the application of this Convention to *Land* Berlin, references in the Convention to the Federal Republic of Germany or to the territory thereof shall be deemed also to be references to *Land* Berlin.

*Article XII*

(1) Her Majesty The Queen may, by a notification given through Her Ambassador at the seat of the Government of the Federal Republic of Germany, at any time while the present Convention is in force under Article XIII, and provided that an agreement has been concluded by an exchange of notes on the points mentioned in paragraph (2) of this Article, extend the operation of this Convention to any of the territories for the international relations of which Her Majesty's Government in the United Kingdom of Great Britain and Northern Ireland are responsible.

(2) Prior to any notification of extension in respect of any territory under the preceding paragraph, an agreement shall be concluded between the High Contracting Parties by an exchange of notes as to the courts of the territory concerned which shall be deemed to be "superior courts" for the purposes of this Convention, and the courts to which application for registration of any judgment shall be made.

(3) The date of the coming into force of any extension under this Article shall be three months from the date of the notification given under the first paragraph of this Article.

(4) Either of the High Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph (1) of this Article, terminate such extension on giving six months' notice of termination through the diplomatic channel.

(5) The termination of the Convention under Article XIII shall, unless otherwise expressly agreed to by both High Contracting Parties, ipso facto terminate it in respect of any territories to which it has been extended under paragraph (1) of this Article.

*Article XIII*

The present Convention shall be subject to ratification. Instruments of Ratification shall be exchanged in London. The Convention shall come into force one month after the date on which Instruments of Ratification are exchanged, and shall remain in force for three years after the date of its coming into force. If neither of the High Contracting Parties shall have given notice through the diplomatic channel to the other not less than six months before the expiration of the said period of three years of an intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the High Contracting Parties shall have given notice to terminate it.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed the present Convention and affixed thereto their seals.

DONE in duplicate at Bonn, this 14th day of July 1960, in the English and German languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland :  
Christopher STEEL

For the Federal Republic of Germany :  
A. H. VAN SCHERPENBERG  
A. BÜLOW

## PROTOCOL OF SIGNATURE

At the time of signing the Convention of this day's date<sup>1</sup> between 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, and the President of the Federal Republic of Germany relating to the reciprocal recognition and enforcement of judgments in civil and commercial matters, the undersigned Plenipotentiaries, being duly authorized thereto, declare that they have agreed that nothing in this Convention shall prevent a court or authority in the territory of the Federal Republic of Germany, in the special cases of Section 328 Paragraph 1 No. 3 of the German Code of Civil Procedure, from declining to recognise or enforce any judgment against a German national, if, to the prejudice of the German national, it is not based on the laws which would have been applicable in accordance with German private international law, in respect of :

<sup>1</sup> See p. 144 of this volume.

- (a) the contracting of a marriage, if one of the betrothed persons is a German national (Article 13 Paragraph 1 of the Introductory Law to the Civil Code) or if the national law (*Heimatrecht*) of one of the betrothed persons refers to German law (Article 27 of the Introductory Law to the Civil Code) ;
- (b) the form of a marriage celebrated in the Federal Republic of Germany (Article 13 Paragraph 3 of the Introductory Law to the Civil Code) ;
- (c) divorce (Article 17 of the Introductory Law to the Civil Code) ;
- (d) the legitimacy of a child (Article 18 of the Introductory Law to the Civil Code) ;
- (e) the legitimation of an illegitimate child (Article 22 of the Introductory Law to the Civil Code) ;
- (f) the adoption of a child (Article 22 of the Introductory Law to the Civil Code).

The same shall apply for the recognition or enforcement of a judgment, if, by such judgment, the remarriage of the German or former German wife of a foreigner who has been declared dead, is not regarded as valid because the declaration of presumption of death effected in the Federal Republic of Germany is not recognised (Section 12 Paragraph 3 of the Missing Persons Law of January 15, 1951, in conjunction with Article 13 Paragraph 2 of the Introductory Law to the Civil Code).

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and affixed thereto their seals.

DONE in duplicate at Bonn, this 14th day of July 1960, in the English and German languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland :

Christopher STEEL

For the Federal Republic of Germany :

A. H. VAN SCHERPENBERG

A. BÜLOW