

**No. 8755**

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**AUSTRIA  
and  
FRANCE**

**Convention concerning the recognition and enforcement of  
judgements and authentic acts in civil and commercial  
matters. Signed at Vienna, on 15 July 1966**

*Official texts: German and French.*

*Registered by Austria on 7 September 1967.*

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**AUTRICHE  
et  
FRANCE**

**Convention sur la reconnaissance et l'exécution des décisions  
judiciaires et des actes authentiques en matière civile et  
commerciale. Signée à Vienne, le 15 juillet 1966**

*Textes officiels allemand et français.*

*Enregistrée par l'Autriche le 7 septembre 1967.*

[TRANSLATION — TRADUCTION]

No. 8755. CONVENTION<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND THE FRENCH REPUBLIC CONCERNING THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS AND AUTHENTIC ACTS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT VIENNA, ON 15 JULY 1966

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The Federal President of the Republic of Austria and the President of the French Republic, desiring, in relations between the two States, to ensure the recognition and enforcement of judgements and authentic acts in civil and commercial matters, have resolved to conclude a Convention for this purpose and have appointed as their plenipotentiaries :

The Federal President of the Republic of Austria :

Mr. Lujo Tončić-Sorinj, Federal Minister for Foreign Affairs,  
Mr. Hans Klecatsky, Federal Minister of Justice ;

The President of the French Republic :

Mr. Louis Roché, Ambassador Extraordinary and Plenipotentiary,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

*Article 1*

This Convention shall apply to judgements given in civil and commercial matters by the courts of the High Contracting Parties, with the exception of judgements relating to bankruptcy, composition and judicial settlement.

*Article 2*

(1) For the purposes of this Convention :

1. The term "judgement" means any decision, however described, given in contentious or voluntary proceedings, even if handed down by a criminal court ;
2. The term "court of origin" means the court which rendered the judgement whose recognition or enforcement is sought ;
3. The term "State of origin" means the State in whose territory the court of origin has its seat ;

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<sup>1</sup> Came into force on 13 August 1967, i.e., on the sixtieth day following the date of the exchange of the instruments of ratification which took place at Paris on 14 June 1967, in accordance with article 21.

4. The term "court applied to" means, in France, the court applied to for an executory declaration and, in Austria, the court applied to for enforcement ;

5. The term "State applied to" means the State in whose territory recognition enforcement is sought.

### Article 3

(1) Judgements pronounced by a court of one of the High Contracting Parties shall be recognized in the territory of the other if the court of origin had jurisdiction within the meaning of articles 6 to 11 of this Convention and if, under the law of the State of origin, the judgement has become final.

(2) In the case of a judgement by default, the defendant must have been duly summoned to appear. In the case of a writ of execution (*Zahlungsbefehl – injonction de payer*) or a payment order (*Zahlungsauftrag – mandat de paiement*), the decision must have been duly notified to the judgement debtor.

### Article 4

Recognition may be refused in the following cases :

1. If it is contrary to the public policy of the State applied to ;

2. If the same claim, based on the same cause of action, has already formed the subject, as between the same parties, of a judgement on the merits which has become final and which was rendered in the State applied to or was rendered in a third State and is recognized in the State applied to ;

3. If, as between the same parties, the same claim, based on the same cause of action, is pending before a court of the State applied to and the action was brought in such court before it was brought in the court of origin ;

4. If, in the case of a judgement by default, the party in default did not acquire knowledge of the proceedings in sufficient time to act upon it, or, in the case of a writ of execution (*Zahlungsbefehl – injonction de payer*) or a payment order (*Zahlungsauftrag – mandat de paiement*), the judgement debtor did not have sufficient time to apply for a stay of proceedings.

### Article 5

(1) Recognition shall not be refused on the ground that the court of origin has applied a law other than that which would have been applicable under the rules of private international law of the State applied to, except with regard to the status or capacity of persons. Even in such cases, recognition shall not be refused if the application of those rules would have led to the same result.

(2) Recognition may be refused if the rules concerning the representation of persons under disability prescribed by the law of the State applied to have been disregarded.

*Article 6*

This Convention shall not affect the rules relating to the jurisdiction of the courts of the High Contracting Parties. Nevertheless, under article 3, paragraph (1), recognition shall not be granted unless the court of origin had jurisdiction within the meaning of articles 7 to 11.

*Article 7*

(1) The courts of the State of origin shall have jurisdiction in matters relating to status and capacity if, on the date of the institution of proceedings, one of the persons whose status or capacity is at issue is a national of that State.

(2) The same shall apply where all the persons whose status or capacity is the subject of the proceedings are on that date domiciled or habitually resident in the State of origin and are nationals of the State applied to.

*Article 8*

In cases where the subject of the proceedings is a right *in rem* in respect of immovable property, the courts of the State where such property is situated shall have jurisdiction. They shall also have jurisdiction in matters relating to the inheritance of immovable property.

*Article 9*

The courts of the State of origin shall have jurisdiction in matters relating to the inheritance of movable property if the deceased was a national of that State or was last domiciled there.

*Article 10*

In matters other than those mentioned in articles 7 to 9, the courts of the State of origin shall have jurisdiction :

1. If, on the date of the institution of proceedings, the defendant is domiciled or habitually resident in that State ;

2. If the defendant has or had a commercial, industrial or other establishment or branch establishment in the territory of that State and is served with a summons there in an action relating to the operation of such establishment or branch establishment ;

3. If, in a commercial matter, by express or tacit agreement between the plaintiff and the defendant, the contractual obligation which is the subject of the action has been or should have been discharged in the territory of that State ;

4. If, in the case of a claim for damages based on extracontractual liability, the tort was committed in the territory of that State :

5. If, on the date of the institution of proceedings, the defendant owns property in the territory of that State and is neither domiciled nor habitually resident in the other State.

#### Article 11

In matters other than those mentioned in articles 7 to 9, the court of origin shall also have jurisdiction :

1. If the defendant has expressly submitted to the jurisdiction of that court, either by election of domicile or through some other agreement conferring jurisdiction, save where the legislation of the State applied provides to the contrary on account of the subject of the action ;

2. If the defendant has entered a defence on the merits without contesting the jurisdiction of the court of origin or without stating that he submits to its jurisdiction only in respect of property situated in the State of origin ;

3. If, in the case of a counter-claim, the court of origin is recognized as having jurisdiction within the meaning of article 10 or of the present article in respect of the principal claim.

#### Article 12

The court in which it is sought to obtain recognition shall be bound by the findings of fact which are contained in the judgement and provide the basis for the jurisdiction of the court of origin.

#### Article 13

The party seeking to obtain recognition must produce :

1. A complete and duly authenticated copy of the judgement ;

2. (a) If the judgement was given in Austria, a statement by the court rendering judgement in the first instance certifying that the judgement has become final ;

(b) If the judgement was given in France, a document indicating the date of notification, a statement by the clerk of the court certifying that no proceedings for a stay of execution or appeal are pending against the judgement, and, in cases where an appeal to the Court of Cassation would entail suspension of execution, a statement certifying that no such appeal has been made ;

3. In the case of a judgement by default, a certified true copy of the summons or any other documentary evidence that the defendant was duly summoned to appear ;

4. In the case of a writ of execution (*Zahlungsbefehl* – *injonction de payer*) or a payment order (*Zahlungsauftrag* – *mandat de paiement*), any documentary evidence that the judgement has been duly notified to the judgement debtor.

*Article 14*

(1) The courts of each of the High Contracting Parties shall, in accordance with the provisions of their national legislation, either refuse to proceed with the case or shall defer judgement where, as between the same parties, the same claim, based on the same cause of action, is already pending before a court of the other State and the proceedings may lead to a decision which qualifies for recognition by virtue of this Convention.

(2) Nevertheless, in urgent cases, application may be made to the courts of each of the High Contracting Parties for interim or conservatory measures (*vorläufige oder sichernde Massnahmen – mesures provisoires ou conservatoires*), irrespective of which court is dealing with the merits of the case.

*Article 15*

(1) Any judgement given by a French court shall be enforceable in Austria if it is enforceable in France and the conditions necessary for its recognition are met.

(2) Any judgement given by an Austrian court shall be declared enforceable in France if it is enforceable in Austria and the conditions necessary for its recognition are met. A stay of execution may not be granted against the executory declaration (*exequatur*).

*Article 16*

The party applying for the enforcement in Austria of a judgement given in France, or for the grant of an executory declaration in France in respect of a judgement given in Austria, must produce, in addition to the documents specified in article 13, documentary evidence that the judgement is enforceable in the territory of the State of origin.

*Article 17*

(1) Authentic acts drawn up and enforceable in France shall be enforceable in Austria. Authentic acts drawn up and enforceable in Austria shall be declared enforceable in France ; a stay of execution may not be granted against the executory declaration (*exequatur*).

(2) In each of the two States, the court shall confine itself to verifying that the authentic act is duly authenticated and that its enforcement is not contrary to the public policy of the State applied to.

(3) The provisions of this article shall also apply to settlements in civil and commercial matters drawn up before a judge and to settlements in matters relating to maintenance drawn up before the Austrian public authorities responsible for the guardianship of minors.

*Article 18*

(1) The documents to be produced in pursuance of this Convention shall be exempt from legalization.

(2) Such documents shall be accompanied by a translation certified by a sworn translator of one of the two States.

*Article 19*

(1) The provisions of the present Convention shall not affect the provisions of other conventions or agreements to which the two States are parties and which govern the recognition and enforcement of judgements or authentic acts.

(2) The present Convention shall apply only to such judgements as are given and such authentic acts as are drawn up after the date of its entry into force.

*Article 20*

(1) This Convention shall apply, in the case of the French Republic, to the territory of metropolitan France.

(2) The High Contracting Parties reserve the right to extend the application of this Convention, by agreement between them and through an exchange of notes and on a date to be determined by them, to the overseas departments and territories of the French Republic or to one or more of them.

*Article 21*

(1) This Convention shall be ratified, and the instruments of ratification shall be exchanged in Paris.

(2) It shall enter into force on the sixtieth day following the date of the exchange of the instruments of ratification.

*Article 22*

(1) Either High Contracting Party may denounce this Convention by giving notice in writing to the other High Contracting Party. The denunciation shall take effect six months after the date of such notice.

(2) The denunciation may be limited to the departments and territories which were the subject of an exchange of notes as provided in article 20, paragraph (2).

*Article 23*

Any disputes which may arise between the High Contracting Parties concerning the interpretation or application of this Convention shall be settled through the diplomatic channel.

IN WITNESS WHEREOF the plenipotentiaries have affixed their signatures to the present Convention.

DONE at Vienna, on 15 July 1966, in duplicate in the French and German languages, both texts being equally authentic.

For the Federal President of the Republic of Austria :

Dr. Lujo TONČIĆ-SORINJ

H. KLECATSKY

For the President of the French Republic :

Louis ROCHÉ

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