

No. 10710

**FRANCE
and
SPAIN**

Convention on the recognition and enforcement of judicial and arbitral decisions and authentic acts in civil and commercial matters. Signed at Paris on 28 May 1969

Authentic texts : French and Spanish.

Registered by France on 3 September 1970.

**FRANCE
et
ESPAGNE**

Convention sur la reconnaissance et l'exécution des décisions judiciaires et arbitrales et des actes authentiques en matière civile et commerciale. Signée à Paris le 28 mai 1969

Textes authentiques : français et espagnol.

Enregistrée par la France le 3 septembre 1970.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF SPAIN ON THE RECOGNITION AND ENFORCEMENT OF JUDICIAL AND ARBITRAL DECISIONS AND AUTHENTIC ACTS IN CIVIL AND COMMERCIAL MATTERS OF 28 MAY 1969

The Government of the French Republic and the Government of Spain, desiring, in relations between the two States, to ensure the recognition and enforcement of judicial and arbitral decisions and authentic acts in civil and commercial matters, have agreed on the following provisions :

Article 1

This Convention shall apply to judgements rendered in civil and commercial matters by the courts of the Contracting Parties and to arbitral decisions rendered and authentic acts drawn up in their territories.

It shall not be applicable in matters involving :

1. Bankruptcy, composition or other similar proceedings;
2. Social security;
3. Nuclear damage.

Article 2

For the purposes of this Convention :

1. The term "decision" means any decision rendered in contentious or voluntary proceedings, irrespective of the name given to it and the court or tribunal by which it is rendered, and any decision rendered by arbitrators;

2. The term "court of origin" means the court or tribunal which rendered the decision 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, the arbitral decision was rendered or the authentic act was drawn up;

4. The term "court applied to" means the court applied to for the recognition or enforcement of the decision or act;

¹ Came into force on 29 March 1960, i.e. 60 days after the date (28 January 1970) of the last of the notifications by each of the Contracting Parties to the effect that the constitutional requirements had been fulfilled, in accordance with article 21.

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

6. The term "authentic acts" means acts enforceable under the law of the State of origin.

Article 3

Decisions rendered by a court of one of the Contracting Parties shall be recognized in the territory of the other :

1. If the court of origin had jurisdiction within the meaning of article 7 of this Convention;

2. If, in the State of origin, the decision is no longer subject to an ordinary review and has become enforceable.

Article 4

Recognition shall be refused :

1. If the conditions specified in the previous article have not been fulfilled;

2. If the decision is contrary to the public policy of the State applied to;

3. If the writ instituting proceedings was not served or delivered to the defaulting party in due form and in good time for that party to defend himself;

4. If an action between the same parties based on the same cause and having the same purpose :

(a) Is pending before a court of the State applied to, and was instituted prior to the proceedings in connexion with which recognition is sought;

(b) Has formed the subject of a decision rendered in the State applied to;

(c) Has formed the subject of a decision which was rendered in another State and which meets the conditions necessary for its recognition in the State applied to.

Article 5

Recognition shall not be refused on the sole 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 the law specified in those rules would have led to the same result.

Article 6

Except in so far as may be necessary for the application of the preceding articles, the court applied to shall not undertake any examination of the merits of the decision rendered in the State of origin.

Article 7

The court of origin shall be considered to have jurisdiction under this convention :

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

2. If, on the date of the institution of proceedings, the defendant had a commercial, industrial or other establishment or branch establishment in the State of origin or had been served with a summons in that State in an action relating to the operation of such establishment or branch establishment;

3. If, in the case of a claim for damages, the tort was committed in the State of origin;

4. If the subject of the action is a dispute relating to immovable property situated in the State of origin;

5. If the defendant has expressly submitted to the jurisdiction of the court of the State of origin, either by election of domicile or through some other agreement conferring jurisdiction;

6. If the defendant has entered a defence on the merits without contesting the jurisdiction of the court of origin;

7. 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 the State of origin;

8. If, in a matter relating to the inheritance of movable property, the deceased was last domiciled in the territory of the State of origin or was a national of that State.

Article 8

The jurisdiction of the court of the State of origin may not be recognized in matters which, under the law of the State applied to, are within the exclusive jurisdiction of the courts of that State.

Article 9

In determining the competence of the court of origin, the authority applied to shall be bound by the findings of fact on which that court based its jurisdiction, except in the case of a decision by default.

Article 10

The courts of each of the Contracting Parties may either refuse to proceed with the case or defer a decision 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.

The provisions of the preceding paragraph shall not prevent the application, in urgent cases, of interim or conservatory measures ordered by the courts of either of the Contracting Parties, regardless of which court is dealing with the merits of the case.

Article 11

Any decision rendered by a court of the State of origin shall be declared enforceable in the State applied to if the conditions necessary for its recognition are met.

Article 12

Valid arbitral decisions rendered in the territory of one of the Contracting Parties shall be recognized in the territory of the other Party if they satisfy the conditions prescribed in articles 3, 4 and 15, to the extent that the said conditions are applicable.

Article 13

The procedure for obtaining enforcement of the decisions shall be governed by the law of the State applied to, except as otherwise specified in this Convention.

A stay of execution may not be granted against the executory declaration relating to a decision of a court.

If the decision pertains to a number of items which may be dissociated, enforcement may be granted on a partial basis.

Article 14

Authentic acts enforceable in the territory of one of the Contracting Parties shall be declared enforceable in the territory of the other Party by the court or tribunal competent under the law of the Contracting Party in whose territory enforcement is requested.

The court or tribunal shall confine itself to determining whether such acts have been duly authenticated in the territory of the Contracting Party

in which they were drawn up and whether the provisions whose enforcement is requested contain anything contrary to the public policy of the Contracting Party in whose territory enforcement is requested.

Article 15

The Party claiming recognition or requesting enforcement shall produce :

1. A complete copy of the decision, duly certified;
2. The original certificate of notification of the decision or any other document constituting notification;
3. If necessary, an authenticated copy of the summons served on the defaulting party and any documentary evidence that the summons reached him in good time;
4. Any documentary evidence that the decision is enforceable in the territory of the State of origin and is no longer subject to an ordinary review.

These documents shall, except where a waiver is granted by the competent authority, be accompanied by a translation certified by a diplomatic or consular agent, by a sworn translator or by any other person authorized for that purpose in either of the two States. They shall be exempt from authentication.

Article 16

A party receiving free legal aid in the State of origin shall be entitled to such aid in respect of any proceedings instituted with a view to securing the recognition or enforcement of the decision in the State applied to.

Article 17

The provisions of this Convention shall not apply to judicial decisions rendered by default before the date of its entry into force.

Article 18

Any dispute which may arise between the Contracting Parties relating to the interpretation or application of this Convention shall be settled through the diplomatic channel.

Article 19

This Convention shall not affect the other conventions to which the two States are or may become parties and which govern the recognition and enforcement of decisions in special matters.

Article 20

This Convention shall apply, in the case of France, to its European and overseas departments and, in the case of Spain, to its national territory.

Article 21

Each Contracting Party shall notify the other of the completion of the procedures required under its Constitution for the entry into force of this Convention, which shall take place 60 days after the date of the second such notification.

Article 22

This Convention shall be concluded for an unlimited period. It may be denounced at any time by either of the Contracting Parties, such denunciation taking effect on the expiry of a period of six months from the date of its notification to the Ministry of Foreign Affairs of the other State.

DONE at Paris, on 28 May 1969, in two copies in the French and Spanish languages, both texts being equally authentic.

For the Government
of the French Republic:

Jean DE LIPKOWSKI

For the Government
of Spain:

Pedro CORTINA Y MAURI