

No. 17802

**NETHERLANDS
and
SURINAME**

Agreement providing for the reciprocal recognition and enforcement of judicial decisions and authentic acts in civil matters. Signed at The Hague on 27 August 1976

Authentic text: Dutch.

Registered by the Netherlands on 26 April 1979.

**PAYS-BAS
et
SURINAME**

Accord relatif à la reconnaissance réciproque et à l'exécution des décisions judiciaires et actes authentiques en matière civile. Signé à La Haye le 27 août 1976

Texte authentique : néerlandais.

Enregistré par les Pays-Bas le 26 avril 1979.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF SURINAME PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS AND AUTHENTIC ACTS IN CIVIL MATTERS

The Government of the Kingdom of the Netherlands and the Government of the Republic of Suriname,

Considering that it is desirable, in connection with the full independence of Suriname, to ensure continued reciprocal recognition and enforcement of judicial decisions and authentic acts in civil matters;

Have agreed as follows:

Chapter I. AREA OF APPLICATION OF THE AGREEMENT

Article 1. 1. The Agreement shall apply to:

- (a) Judicial decisions in civil matters, including actions for maintenance, irrespective of the nature of the court before which the case is brought, and irrespective of the nationality of the parties;
- (b) Authentic acts and judicial settlements in civil matters.

2. The Agreement shall not apply to:

- (a) The status and capacity of individuals, the law governing matrimonial property and the law of succession;
- (b) Bankruptcy, agreement to pay and suspension of payments;
- (c) Arbitration;
- (d) Decisions whereby the judgement debtor is sentenced to pay a mandatory amount to the judgement creditor in case the debtor does not fulfil his obligations to carry out, or desist from, an action, unless the amount of the forfeit has been established by a further decision of the court which handed down the sentence;
- (e) Social security;
- (f) Decisions handed down in a criminal case concerning actions resulting from a legal relationship in civil law.

Chapter II. RECOGNITION AND ENFORCEMENT

Article 2. 1. A decision handed down by a court in the Kingdom of the Netherlands or in the Republic of Suriname shall be recognized and enforced in the other country in accordance with the provisions of this Agreement if:

- (a) An ordinary appeal can no longer be entered against the decision in the country of origin, nevertheless, decisions shall be enforceable in anticipation

¹ Came into force on 10 January 1979, after the Contracting Parties had informed each other in writing of the completion of the required constitutional procedures, in accordance with article 16 (1).

and by means of provisional measures, even if an ordinary appeal can still be entered against such measures, and shall be enforced if similar decisions or measures in the country where enforcement is sought can be handed down and enforced;

- (b) The decision has been handed down by a court deemed to have jurisdiction within the meaning of this Agreement.

2. Within the meaning of this Agreement, “*beslissing*” means any decision handed down by a court in the Kingdom of the Netherlands or in the Republic of Suriname, irrespective of the name given to such a decision, e.g. “*vonnis*”, “*beschikking*”, “*rechterlijk dwangbevel*” or “*arrest*”.

Article 3. 1. Within the meaning of this Agreement, the following courts shall have jurisdiction to hand down decisions:

- (a) The court of the country in whose territory the defendant was domiciled or had his usual place of residence at the time the case was brought before the court;
- (b) The court whose jurisdiction the defendant has recognized either expressly or by fully responding to the proceedings without expressing reservations as to its jurisdiction;
- (c) The court of the country in whose territory the defendant, at the time the case was brought before the court, had a place of business, an agency, a commercial or industrial enterprise or any other establishment, in respect of disputes concerning activities of that place of business, agency, commercial or industrial enterprise or other establishment;
- (d) The court of the country in whose territory immovable property is situated, in respect of disputes concerning the possession or ownership, renting and letting, and the taking or giving on lease of such property.

2. In addition, the court of the country of origin shall have jurisdiction, within the meaning of this Agreement, where the person against whom recognition or enforcement is sought was the plaintiff in the case before the court of the country of origin and that court has decided against him.

Article 4. Recognition or enforcement of a decision can be refused only if such recognition or enforcement is clearly incompatible with the public order of the country applied to.

Article 5. 1. Subject to the provisions of article 4, in the case of a decision by default, the court where recognition or enforcement is sought shall recognize the decision only if it is established that the document instituting the proceedings has been communicated to, or served on, the party who was declared in default and that that party was allowed a period of time which, taking into account the circumstances of the case, was sufficient for conducting the defence.

2. Also subject to the provisions of article 4, a court may refuse to adjudicate recognition or enforcement of a decision by default unless it is proved that, in the country of origin of that decision, everything necessary was done to ensure that the document instituting the proceedings actually reached the defendant and also that he was given enough time to conduct his defence.

Article 6. 1. Subject to the provisions of articles 3 and 4, the court of the country applied to shall in no circumstances open an investigation into the correctness of the decision handed down in the country of origin.

2. When checking on the jurisdiction of the court in the country of origin, the court of the country applied to shall confine itself to the factual considerations on the basis of which that court assumed its jurisdiction, unless the decision was handed down by default.

Chapter III. RECOGNITION AND ENFORCEMENT PROCEDURE

Article 7. 1. Permission to enforce a decision shall be given when the decision is enforceable in the country of origin. Nevertheless, the court of the country applied to may defer its decision to grant enforcement if an ordinary appeal has been entered against the decision.

2. Applications for permission to enforce may be made by every interested party and shall be addressed:

- (a) In the case of the Kingdom of the Netherlands (the Netherlands): to the court of the *arrondissement* where the applicant's adversary is domiciled, or to the court of the *arrondissement* where enforcement is requested;
- (b) In the case of the Republic of Suriname: to the judge of the district where the applicant's adversary is domiciled or where enforcement is requested.

Article 8. 1. The party requesting recognition or enforcement must produce the following documents:

- (a) A complete and authentic copy of the decision;
- (b) In the case of a decision by default: the original or a certified true copy of the documents serving to establish that the document instituting the proceedings was communicated in the manner prescribed in the country of origin to, or served on, the party who failed to appear;
- (c) Any document serving to establish that the decision is compatible with the provisions of article 2, paragraph 1, subparagraph (a), and from which it is clear that the decision is enforceable in the country of origin.

2. If the authority applied to cannot ascertain from the content of the decision whether the conditions imposed under the Agreement have been complied with, it can require other documentary evidence necessary for that purpose to be submitted.

3. No authentication or similar formality shall be required.

4. Where separate rulings are given in connection with a decision relating to different parts of an action, recognition or enforcement of one or more parts of the decision may be granted.

Article 9. Subject to the provisions of this Agreement, the procedure for obtaining a grant of enforcement shall be governed by the law of the country where the enforcement is to take place.

Article 10. The recognition or enforcement of a judgement shall not be included in the costs of the proceedings under this Agreement unless the Agreement applies to the decision concerning the principal action.

Article 11. 1. A party who, in the country of origin, has received permission to engage in proceedings free of charge or at a reduced rate shall retain this right, subject to the conditions prescribed by the law of the country applied to, in any action for obtaining, in that country, recognition or enforcement of the decision, provided that he produces a document attesting to that permission.

2. A party who, in the country applied to, requests the enforcement of a decision handed down in the country of origin, shall not be required to provide any security whatsoever because of his alien status or because he is not domiciled or resident in the first country.

Chapter IV. AUTHENTIC ACTS AND JUDICIAL SETTLEMENTS

Article 12. 1. Authentic acts, drawn up in the Kingdom of the Netherlands or in the Republic of Suriname, shall be enforced as judicial decisions that have become definitive in accordance with the provisions of this Agreement, to the extent that they are enforceable in the country of origin.

2. Judicial settlements which were negotiated in the course of proceedings and are enforceable in the country of origin shall be enforceable in the country applied to on the same footing as authentic acts.

3. Article 4 shall likewise apply in both cases.

Article 13. This Agreement shall not affect other agreements concerning the recognition and enforcement of judicial decisions in civil matters or authentic acts to which the Kingdom of the Netherlands or the Republic of Suriname is already a party.

Article 14. 1. Judgements, orders and legally valid copies of authentic acts concerning civil matters, which were handed down, issued or negotiated on or before 24 November 1975, shall continue to be enforceable in both States in accordance with article 40 of the Statute for the Kingdom of the Netherlands.

2. This Agreement shall apply to judicial decisions, authentic acts and judicial settlements in civil matters, as specified in article 1, which were handed down, issued or negotiated after 24 November 1975.

Chapter V. FINAL PROVISIONS

Article 15. 1. As regards the Kingdom of the Netherlands, this Agreement shall apply only to the territory of the Kingdom in Europe.

2. Application of the Agreement may be extended to the territory of the Netherlands Antilles by means of an exchange of notes between the Government of the Kingdom of the Netherlands and the Government of the Republic of Suriname.

3. Subject to the provisions of article 16, paragraph 2, the Government of the Kingdom of the Netherlands and the Government of the Republic of Suriname may terminate the application of the Agreement to the Netherlands Antilles referred to in paragraph 2 of this article.

Article 16. 1. This Agreement shall enter into force after the Contracting Parties have notified each other in writing that the procedures constitutionally required in their countries in respect of this Agreement have been complied with.

2. Either Party may at any time denounce this Agreement by means of written notification to the other Party. Such denunciation shall take effect six months after the date of notification.

IN WITNESS WHEREOF the undersigned plenipotentiaries, having been duly authorized to this effect by their respective Governments, have signed this Agreement.

DONE at The Hague on 27 August 1976, in duplicate, in the Dutch language.

For the Government
of the Kingdom of the Netherlands:

M. VAN DER STOEL

For the Government
of the Republic of Suriname:

E. HOOST