

No. 27183

**GREECE
and
FEDERAL REPUBLIC OF GERMANY**

Convention concerning the reciprocal recognition and enforcement of judicial decisions, settlements and public documents in civil and commercial matters. Signed at Athens on 4 November 1961

Authentic texts: Greek and German.

Registered by Greece on 2 April 1990.

**GRÈCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

Convention relative à la reconnaissance réciproque et à l'exécution des décisions et transactions judiciaires et des actes publics en matière civile et commerciale. Signée à Athènes le 4 novembre 1961

Textes authentiques : grec et allemand.

Enregistrée par la Grèce le 2 avril 1990.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE KINGDOM OF GREECE AND THE
FEDERAL REPUBLIC OF GERMANY CONCERNING THE RE-
CIPROCAL RECOGNITION AND ENFORCEMENT OF JUDI-
CIAL DECISIONS, SETTLEMENTS AND PUBLIC DOCUMENTS
IN CIVIL AND COMMERCIAL MATTERS

His Majesty the King of the Hellenes and the President of the Federal Republic of Germany,

Desiring to regulate the reciprocal recognition and enforcement of judicial decisions, settlements and public documents in civil and commercial matters, have decided to conclude a convention and have appointed as their plenipotentiaries:

His Majesty the King of the Hellenes: His Excellency Mr. Christian Xanthopoulos Palamas, Ambassador, Director-General of the Greek Ministry of Foreign Affairs; and

Mr. Charalambos Pagoulatos, former Secretary-General of the Greek Ministry of Justice, attorney in the Supreme Court of Appeal;

The President of the Federal Republic of Germany: His Excellency Dr. Gebhard Seelos, Ambassador of the Federal Republic of Germany in Athens; and

Professor Arthur Bülow, Assistant Secretary in the Federal Ministry of Justice, who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

PART ONE

RECOGNITION OF JUDICIAL DECISIONS

Article 1

1. Decisions rendered in civil or commercial matters by the courts of one of the States by which the rights of the parties are decided finally in contentious or non-contentious proceedings shall be recognized in the other State even if they are still subject to appeal. Decisions rendered in criminal proceedings on rights arising from a legal relationship under civil or commercial law shall also be treated as decisions rendered in civil or commercial matters.

2. For the purposes of recognition, it shall be of no account whether the decision is designated as a decision, judgment, writ of execution or otherwise.

Article 2

Decisions rendered in matrimonial and family matters by the courts of one of the States shall be recognized in the other State if the parties are nationals of the

¹ Came into force on 18 September 1963, i.e., one month after the exchange of the instruments of ratification, which took place at Bonn on 17 August 1963, in accordance with article 24 (2).

Contracting Parties and were customarily resident in the State in which the decision was rendered.

Article 3

Recognition may be refused only:

1. If it is in conflict with the public policy of the State in which it is being sought. Such conflict shall also be deemed to exist where the decision concerns a right which, at the time when the decision was rendered, was the subject, in the State in which recognition of the decision is being sought and between the same parties, of a decision which, according to the legislation of that State, is considered final; or

2. If the defendant has not participated in the proceedings:

(a) In cases where the summons or judicial act instituting the proceedings was not served on him in accordance with the legislation of the State in which the decision was rendered; or

(b) In cases where he proves that he was not able to acquire knowledge of the summons or judicial act in sufficient time to be able to participate in the proceedings; or

3. If, according to the legislation of the State in which recognition of the decision is being sought, the courts of that State alone were by law competent; or

4. If the court which rendered the decision was competent solely by reason of its being the *forum rei sitae* and the defendant either:

(a) Did not participate in the proceedings, or

(b) Declared, before joining issue, that he was participating in the proceedings solely in respect of property situated in the State of the court to which recourse has been had.

Article 4

1. Recognition shall not be refused solely on the ground that the court which rendered the decision applied, in accordance with the rules of its own private international law, laws other than those which would have been applicable under the private international law of the State in which recognition of the decision is being sought.

2. Recognition may, however, be refused on the ground referred to in paragraph 1 above if the decision concerns a relationship under family law or the law of succession, legal capacity or the capacity for performing legal acts, legal representation, or presumption of death or a declaration of death in respect of a national of the State in which recognition of the decision is being sought, unless it would also be justified by application of the private international law of the State in which such recognition is being sought.

Article 5

1. A decision rendered in one of the States for which recognition is being sought in the other State may be examined only with respect to whether there exist any of the reasons for refusal referred to in article 3 or in article 4, paragraph 2. In no case shall it be examined from the point of view of its legality (with respect to the merits).

2. In ascertaining the competence of the court which rendered the decision, the court of the State in which recognition of the decision is being sought pursuant to article 2 shall be bound by the factual and judicial findings of the first-mentioned court.

PART TWO

ENFORCEMENT OF JUDICIAL DECISIONS

Article 6

Final or provisionally enforceable judicial decisions the enforcement of which is permissible in the State where they were rendered and which, pursuant to this Convention, must be recognized in the other State shall be enforced in the last-mentioned State after being declared enforceable.

Article 7

Both the enforcement declaration and enforcement shall be governed by the law of the State in which enforcement is to take place.

Article 8

Application for enforcement may be made to the competent court by anyone entitled, in the State in which the decision was rendered, to derive rights or claims from that decision.

Article 9

The Party applying for enforcement shall produce:

1. A certified copy of the full text of the decision, bearing the official seal;
2. If a party failed to appear in the proceedings, the original or a certified copy of the document proving that the summons or judicial act instituting the proceedings was served on that party in accordance with article 3, subparagraph 2 (a) above;
3. The original or a certified copy of the proof of service or any other document indicating that notice of the decision was given to the party against whom enforcement is being sought;
4. The document attesting or indicating that the decision is enforceable under the law of the State in which the decision was rendered;
5. Proof that he has furnished any security the provision of which has been made incumbent on him;
6. Translations of the documents mentioned above into the language of the court applied to, certified by a diplomatic or consular agent or an officially appointed or sworn translator of either State.

Article 10

1. In its decision concerning an application for enforcement, the court applied to must confine itself to examining whether the documents required under article 9 above have been produced and whether any of the grounds for refusal specified in article 3 above exist. In no case shall the decision whose enforcement is being sought be examined from the point of view of legality (with respect to the merits).

2. When a decision whose enforcement is being applied for can still be contested by an appeal or other legal remedy in the State in which it was rendered, the proceedings of the application for enforcement may be suspended if the adversary proves that he has availed himself of such legal remedy. If such legal remedy has not yet been exercised against the decision and the time-limit for such exercise fixed by the law of the country in which the decision was rendered has not yet expired, the court applied to may defer the decision on the application for enforcement and set a time-limit for the exercise of the legal remedy by the party against whom the decision is to be enforced.

3. The decision on the application for enforcement shall be deferred if the judgment debtor proves that enforcement against him must be suspended and that he has satisfied the requirements on which such suspension depends.

Article 11

A decision may be declared partially enforceable:

1. If it relates to one or more claims and the applicant is applying for the grant of an enforcement declaration in respect of only part of the claim or one or more of the claims; or
2. If it relates to more than one claim and the application for its enforcement is well-founded in respect of only one or more of the claims.

Article 12

If the decision is declared enforceable, the court shall at the same time, where appropriate, order the measures required in order to attach to the foreign decision the same effects that it would have if it had been rendered by the courts of the State in which it is being declared enforceable.

PART THREE

JUDICIAL SETTLEMENTS, ARBITRAL AWARDS AND PUBLIC DOCUMENTS

Article 13

1. Judicial settlements shall be treated as final judicial decisions.
2. The applicant must attach to the application for enforcement a certified copy of the settlement, bearing the official seal and the enforcement clause, together with a translation satisfying the requirements of article 9, subparagraph 6.

Article 14

1. The recognition and enforcement of arbitral awards shall be governed by the conventions or agreements in force from time to time between the two Contracting Parties.
2. Settlements concluded before a court of arbitration shall be treated as arbitral awards.

Article 15

1. Public documents drawn up and enforceable in one State shall be enforced in the other State as though they were final court decisions. Such acts include, in particular, judicial or notarial acts as well as commitments undertaken and settle-

ments entered into by an administrative authority (*Jugendamt*) in matters of maintenance.

2. The applicant must attach to his application for enforcement a certified copy of the public document, bearing the official seal and the enforcement clause, together with a translation satisfying the requirements of article 9, subparagraph 6.

3. The Court of the State in which enforcement is being applied for must limit itself to ascertaining whether the copy of the public document was drawn up regularly in accordance with the law of the State in which it was issued and whether such enforcement is not contrary to the public policy of the State in which such application is being made.

Article 16

Enforcement declarations in respect of the executory titles referred to in this part and the manner of enforcement shall be governed by the law of the State in which enforcement is to take place.

PART FOUR

SPECIAL PROVISIONS

Article 17

1. This Convention shall not apply:

- (1) To decisions in bankruptcy and composition proceedings;
- (2) To attachments.

2. Furthermore, this Convention shall not apply to decisions concerning provisional orders or injunctions. It shall, however, apply to such decisions concerning provisional orders or injunctions which relate to the grant of maintenance or other cash benefits. Titles of that nature shall be enforced as final judicial decisions.

Article 18

1. If a case is pending before a court of one State and the decision in that case is to be recognized in the other State, then any court of the last-mentioned State before which proceedings are subsequently instituted on the same matter and between the same parties shall refuse to render a decision.

2. The competent courts of each of the two Contracting Parties may, however, in emergency situations, issue provisional orders or injunctions under their domestic law, irrespective of the court which is seized of the main case.

Article 19

This Convention shall not affect the provisions of other bilateral or multilateral conventions or agreements which, in specific areas of law, govern the recognition and enforcement of judicial decisions, arbitral awards or public documents and which are in force or come into force between the two Contracting Parties.

Article 20

The present Convention shall apply irrespective of the nationality of the parties, save as otherwise provided in article 2 and article 4, paragraph 2, above.

Article 21

This Convention shall apply only to judicial decisions rendered, settlements concluded and public documents drawn up after its entry into force.

Article 22

The present Convention shall not prevent a decision of a court of one of the States to which this Convention does not apply or which cannot be recognized or enforced on the basis of this Convention from being recognized and enforced in the other State on the basis of its domestic law.

PART FIVE

FINAL PROVISIONS

Article 23

This Convention shall also apply to *Land Berlin* provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Kingdom of Greece within three months from the date of entry into force of this Convention.

Article 24

1. This Convention shall be subject to ratification. The instruments of ratification shall be exchanged at Bonn as soon as possible.
2. This Convention shall enter into force one month after the exchange of the instruments of ratification.
3. This Convention may be denounced in writing at any time. It shall cease to have effect six months after such denunciation.

IN WITNESS WHEREOF the plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Athens on 4 November 1961, in four originals, two in the Greek and two in the German language, the texts in both languages being equally authentic.

For the Kingdom of Greece:

CHRISTIAN XANTHOPOULOS PALAMAS
CHARALAMPOS PAGOULATOS

For the Federal Republic
of Germany:

GEBHARD SEELOS
ARTHUR BÜLOW