

CONFERENCE  
OF THE  
REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES

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General Secretariat

PRESS RELEASE

The Convention on Jurisdiction and the Enforcement of Civil and Commercial Judgements will enter into force on 1 February 1973, following the deposit with the General Secretariat of the Council of the European Communities, by all the Member States of the European Economic Community, of their instruments of ratification in respect of the above-mentioned Convention, the Protocol relating to it and the Joint Declaration, all of which were signed on 27 September 1968 in Brussels.

With reference to the Press Release <sup>(1)</sup> circulated at the time of the signature, it should be noted that this Convention represents considerable progress in international legal relations within the EEC. Indeed, by virtue of new demarcations of competence and broad mutual recognition of civil and commercial judgements, it will enable decisions to be enforced in the Contracting States without hindrance.

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<sup>(1)</sup> See attached an extract from the Press Release in question setting out the main elements of the Convention.

It should likewise be noted that, in accordance with the Act of Accession, the new Member States have undertaken to accede to this Convention; negotiations with the original Member States have already begun with a view to making the necessary adjustments.

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ANNEX

The Convention applies only to proceedings having an international character, and therefore will not affect proceedings which have no repercussions abroad. On the other hand, it applies automatically to all proceedings which have this international character within the Community.

The Convention lays down that persons resident in the territory of a Contracting State come under the jurisdiction of that State, whatever their nationality. It therefore provides that only the judge in the State in which the defendant resides is required to pronounce on the court's competence. As a result, the Convention excludes the possibility, contrary to what has often happened hitherto, that the judge in the State in which the judgement must be enforced may proceed to re-examine the court's competence. The Convention thus makes it possible to speed up enforcement of the judgement considerably by reducing the delay between the time when it is pronounced and its enforcement. It also makes it possible to eliminate the disadvantage that a judgement, although it cannot be attacked on a matter of substance, may not be enforced because the second judge denies the competence of the first.

The detailed rules on competence permit a simplification of the procedure of recognition and enforcement as compared with the existing law in the Member States. Renunciation of the right to pronounce on the competence of the judge of the State in which the judgement was given has made it possible to reduce the number of reasons for a refusal of recognition to two, i.e. incompatibility with public policy, and a failure to recognise the right of the defendant to be heard and defended at law.

As regards the "exequatur" procedure, i.e. the authorisation to open the enforcement procedure, the solution provided by the Convention is marked by a considerable acceleration in comparison with the previously existing provisions. In future the application made by the creditor with a view to having the judgement enforced will no longer give rise to a formal exchange of pleadings, but the judge will be able to make a rapid decision without any special formalities and only one means of recourse will in future be authorised.

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