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LAW



Treaty Series No. 20 (1992)

Convention

on the Accession of the Kingdom of Spain and the Portuguese Republic to the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters and to the Protocol on its Interpretation by the Court of Justice with the Adjustments made to them by the Convention on the Accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland and the Adjustments made to them by the Convention on the Accession of the Hellenic Republic with Joint Declaration

Donostia-San Sebastián, 26 May 1989

[The Convention entered into force for the United Kingdom on 1 December 1991]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1992*

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**CONVENTION
ON THE ACCESSION OF THE KINGDOM OF SPAIN AND THE PORTUGUESE
REPUBLIC TO THE CONVENTION ON JURISDICTION AND THE
ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS
AND TO THE PROTOCOL ON ITS INTERPRETATION BY THE COURT OF
JUSTICE WITH THE ADJUSTMENTS MADE TO THEM BY THE
CONVENTION ON THE ACCESSION OF THE KINGDOM OF DENMARK, OF
IRELAND AND OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE ADJUSTMENTS MADE TO THEM BY THE
CONVENTION ON THE ACCESSION OF THE HELLENIC REPUBLIC.**

PREAMBLE

The High Contracting Parties to the Treaty Establishing the European Economic Community¹,

Considering that the Kingdom of Spain and the Portuguese Republic, in becoming members of the Community, undertook to accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland and the adjustments made to them by the Convention on the accession of the Hellenic Republic, and to this end undertook to enter into negotiations with the Member States of the Community in order to make the necessary adjustments thereto,

Mindful that on 16 September 1988² the Member States of the Community and the Member States of the European Free Trade Association concluded in Lugano the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, which extends the principles of the Brussels Convention to the States becoming parties to the Convention;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries:

His Majesty The King of the Belgians:

Mr Jacques de Lentdecker
Head of Private Office of the Ministry of Justice

Her Majesty The Queen of Denmark:

Mrs Jette Bergitte Selsø
Chargé d'Affaires a.i. at the Embassy of Denmark in Madrid

The President of the Federal Republic of Germany:

Dr Georg Tresspitz
Minister Plenipotentiary at the Embassy of the Federal Republic of Germany in Madrid
Dr Klaus Kinkel
State Secretary at the Federal Ministry for Justice

The President of the Hellenic Republic:

Mr Giannis Skoularikis
Minister for Justice

His Majesty The King of Spain:

Mr Enrique Mugica Herzog
Minister for Justice

¹Treaty Series No. 47 (1988), Cm 455.

²Not published.

The President of the French Republic:

Mr Pierre Arpaillange
Keeper of the Seals
Minister for Justice

The President of Ireland:

Mr Patrick Walshe
Ambassador Extraordinary and Plenipotentiary of Ireland to Spain

The President of the Italian Republic:

Mr Giuliano Vassalli
Minister for Justice

His Royal Highness The Grand Duke of Luxembourg:

Mr Ronald Mayer
Ambassador Extraordinary and Plenipotentiary of Luxembourg to Spain

Her Majesty The Queen of the Netherlands:

Mr Frits Korthals Altes
Minister for Justice
Mr J Spoormaker
First Secretary at the Embassy

The President of the Portuguese Republic:

Mr Fernando Nogueira
Minister responsible for relations with the Prime Minister's Office and Minister for Justice

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland:

Mr John Patten
Minister of State, Home Office

Who, meeting within the Council, having exchanged their Full Powers, found in good and due form,

Have agreed as follows:

TITLE I

General provisions

ARTICLE 1

The Kingdom of Spain and the Portuguese Republic hereby accede to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Brussels on 27 September 1968 (hereinafter called "the 1968 Convention")¹ and to the Protocol on its interpretation by the Court of Justice, signed at Luxembourg on 3 June 1971 (hereinafter called "the 1971 Protocol")¹, with the adjustments made to them:

—by the Convention signed at Luxembourg on 9 October 1978 (hereinafter called "the 1978 Convention")², on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice,

¹ Not published.

² Treaty Series No. 10 (1988), Cm 306.

—by the Convention, signed at Luxembourg on 25 October 1982 (hereinafter called “the 1982 Convention”)¹, on the accession of the Hellenic Republic to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and to the Protocol on its interpretation by the Court of Justice, with the adjustments made to them by the Convention on the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 2

The substantive adjustments made by this Convention to the 1968 Convention² and the 1971 Protocol², as adjusted by the 1978 Convention and the 1982 Convention¹, are set out in Titles II to V. The formal adjustments to the 1968 Convention, as amended by the 1978 Convention and the 1982 Convention, are set out separately for each authentic version concerned in Annex I, which forms an integral part of this Convention.

TITLE II

Adjustments to the 1968 Convention

ARTICLE 3

The following shall be inserted between the ninth and tenth indents of the second paragraph of Article 3 of the 1968 Convention, as amended by Article 4 of the 1978 Convention and Article 3 of the 1982 Convention:

“—in Portugal: Article 65(1)(c), Article 65(2) and Article 65A)(c) of the code of civil procedure (Código de Processo Civil) and Article 11 of the code of labour procedure (Código de Processo de Trabalho).”

ARTICLE 4

The following shall be substituted for Article 5(1) of the 1968 Convention, as amended by Article 5 of the 1978 Convention:

“1. in matters relating to a contract, in the courts for the place of performance of the obligation in question; in matters relating to individual contracts of employment, this place is that where the employee habitually carries out his work, or if the employee does not habitually carry out his work in any one country, the employer may also be sued in the courts for the place where the business which engaged the employee was or is now situated;”

ARTICLE 5

The following point 4 shall be added to Article 6 of the 1968 Convention:

“4. in matters relating to a contract, if the action may be combined with an action against the same defendant in matters relating to rights *in rem* in immovable property, in the court of the Contracting State in which the property is situated.”

ARTICLE 6

The following shall be substituted for Article 16(1) of the 1968 Convention:

- “1. (a) in proceedings which have as their object rights *in rem* in immovable property or tenancies of immovable property, the courts of the Contracting State in which the property is situated;
- (b) however, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the Contracting State in which the defendant is domiciled shall also have jurisdiction, provided that the landlord and the tenant are natural persons and are domiciled in the same Contracting State;”

¹Treaty Series No. 12 (1991), Cm 1437.

²Not published.

ARTICLE 7

In Article 17 of the 1968 Convention, as amended by Article 11 of the 1978 Convention,

—the following shall be substituted for the first paragraph:

“If the parties, one or more of whom is domiciled in a Contracting State, have agreed that a court or the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have exclusive jurisdiction. Such an agreement conferring jurisdiction shall be either:

- (a) in writing or evidenced in writing, or
- (b) in a form which accords with practices which the parties have established between themselves, or
- (c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.

Where such an agreement is concluded by parties, none of whom is domiciled in a Contracting State, the courts of other Contracting States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.”;

—the following shall be added as a final paragraph:

“In matters relating to individual contracts of employment an agreement conferring jurisdiction shall have legal force only if it is entered into after the dispute has arisen or if the employee invokes it to seise courts other than those for the defendant’s domicile or those specified in Article 5(1).”

ARTICLE 8

The following shall be substituted for Article 21 of the 1968 Convention:

“ARTICLE 21

Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Contracting States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.”.

ARTICLE 9

The following shall be substituted for the first paragraph of Article 31 of the 1968 Convention:

“A judgment given in a Contracting State and enforceable in that State shall be enforced in another Contracting State when, on the application of any interested party, it has been declared enforceable there.”

ARTICLE 10

The following shall be inserted between the fourth and fifth indents of the first paragraph of Article 32 of the 1968 Convention, as amended by Article 16 of the 1978 Convention and Article 4 of the 1982 Convention:

“—in Spain, to the Juzgado de Primera Instancia,”

and the following shall be inserted between the ninth and tenth indents thereof:

“—in Portugal, to the Tribunal Judicial de Circulo,”.

ARTICLE 11

1. The following shall be inserted between the fourth and fifth indents of the first paragraph of Article 37 of the 1968 Convention, as amended by Article 17 of 1978 Convention and Article 5 of the 1982 Convention:

“—in Spain, with the Audiencia Provincial,”

and the following shall be inserted between the ninth and tenth indents thereof:

“—in Portugal, with the Tribunal da Relação,”.

2. The following shall be substituted for the first indent of the second paragraph of Article 37 of the 1968 Convention, as amended by Article 17 of the 1978 Convention and Article 5 of the 1982 Convention:

“—in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,”

and the following shall be inserted between the fourth and fifth indents thereof:

“—in Portugal, by an appeal on a point of law,”.

ARTICLE 12

The following shall be inserted between the fourth and fifth indents of the first paragraph of Article 40 of the 1968 Convention, as amended by Article 19 of the 1978 Convention and Article 6 of the 1982 Convention:

“—in Spain, to the Audiencia Provincial,”

and the following shall be inserted between the ninth and tenth indents thereof:

“—in Portugal, to the Tribunal da Relação,”.

ARTICLE 13

The following shall be substituted for the first indent of Article 41 of the 1968 Convention, as amended by Article 20 of the 1978 Convention and Article 7 of the 1982 Convention:

“—in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,”

and the following shall be inserted between the fourth and fifth indents thereof:

“—in Portugal, by an appeal on a point of law,”.

ARTICLE 14

The following shall be substituted for the first paragraph of Article 50 of the 1968 Convention:

“A document which has been formally drawn up or registered as an authentic instrument and is enforceable in one Contracting State shall, in another Contracting State, be declared enforceable there, on application made in accordance with the procedures provided for in Article 31 *et seq.* The application may be refused only if enforcement of the instrument is contrary to public policy in the State addressed.”.

ARTICLE 15

The third paragraph of Article 52 of the 1968 Convention shall be deleted.

ARTICLE 16

The following shall be substituted for Article 54 of the 1968 Convention:

“ARTICLE 54

The provisions of this Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III if jurisdiction was founded upon rules which accorded with those provided for either in Title II of this Convention or in a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

If the parties to a dispute concerning a contract had agreed in writing before 1 June 1988 for Ireland or before 1 January 1987 for the United Kingdom that the contract was to be governed by the law of Ireland or of a part of the United Kingdom, the courts of Ireland or of that part of the United Kingdom shall retain the right to exercise jurisdiction in the dispute.”.

ARTICLE 17

The following Article shall be added to Title VI of the 1968 Convention:

“ARTICLE 54A

For a period of three years from 1 November 1986 for Denmark and from 1 June 1988 for Ireland, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of Title II, but also in accordance with the provisions of paragraphs 1 to 6 following. However, upon the entry into force of the International Convention relating to the arrest of sea-going ships, signed at Brussels on 10 May 1952, for one of these States, these provisions shall cease to have effect for that State.

1. A person who is domiciled in a Contracting State may be sued in the courts of one of the States mentioned above in respect of a maritime claim if the ship to which the claim relates or any other ship owned by him has been arrested by judicial process within the territory of the latter State to secure the claim, or could have been so arrested there but bail or other security has been given, and either:

- (a) the claimant is domiciled in the latter State, or
- (b) the claim arose in the latter State, or
- (c) the claim concerns the voyage during which the arrest was made or could have been made, or
- (d) the claim arises out of a collision or out of damage caused by a ship to another ship or to goods or persons on board either ship, either by the execution or non-execution of a manoeuvre or by the non-observance of regulations, or
- (e) the claim is for salvage, or
- (f) the claim is in respect of a mortgage or hypothecation of the ship arrested.

2. A claimant may arrest either the particular ship to which the maritime claim relates, or any other ship which is owned by the person who was, at the time when the maritime claim arose, the owner of the particular ship. However, only the particular ship to which the maritime claim relates may be arrested in respect of the maritime claims set out in (5)(o), (p) or (q) of this Article.

3. Ships shall be deemed to be in the same ownership when all the shares therein are owned by the same person or persons.

4. When in the case of a charter by demise of a ship the charterer alone is liable in respect of a maritime claim relating to that ship, the claimant may arrest that ship or any other ship owned by the charterer, but no other ship owned by the owner may be arrested in respect of such claim. The same shall apply to any case in which a person other than the owner of a ship is liable in respect of a maritime claim relating to that ship.

5. The expression "maritime claim" means a claim arising out of one or more of the following:

- (a) damage caused by any ship either in collision or otherwise;
- (b) loss of life or personal injury caused by any ship or occurring in connection with the operation on any ship;
- (c) salvage;
- (d) agreement relating to the use or hire of any ship whether by charterparty or otherwise;
- (e) agreement relating to carriage of goods in any ship whether by charterparty or otherwise;
- (f) loss of or damage to goods including baggage carried in any ship;
- (g) general average;
- (h) bottomry;
- (i) towage;
- (j) pilotage;
- (k) goods or materials wherever supplied to a ship for her operation or maintenance;
- (l) construction, repair or equipment of any ship or dock charges and dues;
- (m) wages of masters, officers or crew;
- (n) master's disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;
- (o) dispute as to the title to or ownership of any ship;
- (p) disputes between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
- (q) the mortgage or hypothecation of any ship.

6. In Denmark, the expression "arrest" shall be deemed as regards the maritime claims referred to in 5(o) and (p) of this Article, to include a "forbud", where that is the only procedure allowed in respect of such a claim under Articles 646 to 653 of law on civil procedure (lov om rettens pleje)."

ARTICLE 18

The following shall be inserted at the appropriate places in chronological order in the list of Conventions set out in Article 55 of the 1968 Convention, as amended by Article 24 of the 1978 Convention and Article 8 of the 1982 Convention:

- the Convention between Spain and France on the recognition and enforcement of judgments and arbitration awards in civil and commercial matters, signed at Paris on 28 May 1969,
- the Convention between Spain and Italy regarding legal aid and the recognition and enforcement of judgments in civil and commercial matters, signed at Madrid on 22 May 1973,
- the Convention between Spain and the Federal Republic of Germany on the recognition and enforcement of judgments, settlements and enforceable authentic instruments in civil and commercial matters, signed at Bonn on 14 November 1983."

ARTICLE 19

The following shall be substituted for Article 57 of the 1968 Convention, as amended by Article 25 of the 1978 Convention:

“ARTICLE 57

1. This Convention shall not affect any conventions to which the Contracting States are or will be parties and which in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

2. With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner:

(a) this Convention shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that Convention, even where the defendant is domiciled in another Contracting State which is not a party to that Convention. The court hearing the action shall, in any event, apply Article 20 of this Convention;

(b) judgments given in a Contracting State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognized and enforced in the other Contracting States in accordance with this Convention.

Where a convention on a particular matter to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Convention which concern the procedures for recognition and enforcement of judgments may be applied.

3. This Convention shall not affect the application of provisions which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.”

ARTICLE 20

The following shall be substituted for Article 58 of the 1968 Convention:

“ARTICLE 58

Until such time as the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Lugano on 16 September 1988¹, takes effect with regard to France and the Swiss Confederation, this Convention shall not affect the rights granted to Swiss nationals by the Convention between France and the Swiss Confederation on jurisdiction and enforcement of judgments in civil matters, signed at Paris on 15 June 1869.”

ARTICLE 21

Article 60 of the 1968 Convention, as amended by Article 27 of the 1978 Convention, shall be deleted.

ARTICLE 22

Article 64(c) of the 1968 Convention shall be deleted.

¹ Miscellaneous No. 1 (1991), Cm 1362.

TITLE III

Adjustments to the Protocol annexed to the 1968 Convention

ARTICLE 23

The following shall be substituted for Article Vb added to the Protocol annexed to the 1968 Convention by Article 29 of the 1978 Convention and amended by Article 9 of the 1982 Convention:

“ARTICLE Vb

In proceedings involving a dispute between the master and a member of the crew of a sea-going ship registered in Denmark, in Greece, in Ireland or in Portugal, concerning remuneration or other conditions of service, a court in a Contracting State shall establish whether the diplomatic or consular officer responsible for the ship has been notified of the dispute. It shall stay the proceedings so long as he has not been notified. It shall of its own motion decline jurisdiction if the officer, having been duly notified, has exercised the powers accorded to him in the matter by a consular convention, or in the absence of such a convention has, within the time allowed, raised any objection to the exercise of such jurisdiction.”

TITLE IV

Adjustments to the 1971 Protocol

ARTICLE 24

The following paragraph shall be added to Article 1 of the 1971 Protocol, as amended by Article 30 of the 1978 Convention and Article 10 of the 1982 Convention:

“The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention and the 1982 Convention.”

ARTICLE 25

The following shall be inserted between the fourth and fifth indents of Article 2(1) of the 1971 Protocol, as amended by Article 31 of the 1978 Convention and Article 11 of the 1982 Convention:

“—in Spain: el Tribunal Supremo,”

and the following shall be inserted between the ninth and tenth indents thereof:

“—in Portugal: o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo,”

ARTICLE 26

Article 6 of the 1971 Protocol, as amended by Article 32 of the 1978 Convention, shall be deleted.

ARTICLE 27

Article 10(d) of the 1971 Protocol, as amended by Article 33 of the 1978 Convention, shall be deleted.

TITLE V

Adjustments to the 1978 Convention and the 1982 Convention

ARTICLE 28

1. Articles 25(2), 35 and 36 of the 1978 Convention shall be deleted.
2. Article 1(2) of the 1982 Convention shall be deleted.

TITLE VI

Transitional provisions

ARTICLE 29

1. The 1968 Convention and the 1971 Protocol, as amended by the 1978 Convention, the 1982 Convention and this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.
2. However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III of the 1968 Convention, as amended by the 1978 Convention, the 1982 Convention and this Convention, if jurisdiction was founded upon rules which accorded with the provisions of Title II of the 1968 Convention, as amended, or with the provisions of a convention which was in force between the State of origin and the State addressed when the proceedings were instituted.

TITLE VII

Final provisions

ARTICLE 30

1. The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention, of the 1971 Protocol, of the 1978 Convention and of the 1982 Convention in the Danish, Dutch, English, French, German, Greek, Irish and Italian languages to the Governments of the Kingdom of Spain and of the Portuguese Republic.
2. The texts of the 1968 Convention, of the 1971 Protocol, of the 1978 Convention and of the 1982 Convention, drawn up in the Portuguese and Spanish languages, are set out in Annexes II, III, IV and V to this Convention. The texts drawn up in the Portuguese and Spanish languages shall be authentic under the same conditions as the other texts of the 1968 Convention, the 1971 Protocol, the 1978 Convention and the 1982 Convention.

ARTICLE 31

This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

ARTICLE 32

1. This Convention shall enter into force on the first day of the third month following the date on which two signatory States, of which one is the Kingdom of Spain or the Portuguese Republic, deposit their instruments of ratification¹.
2. This Convention shall take effect in relation to any other signatory State on the first day of the third month following the deposit of its instrument of ratification.

ARTICLE 33

The Secretary-General of the Council of the European Communities shall notify the signatory States of:

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

ARTICLE 34

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, all ten texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State².

¹ The Convention entered into force on 1 February 1991.

² For foreign language texts see Official Journal of the European Communities No. L 285 of 3 October 1989, available from HMSO Publications Centre, PO Box 276, London SW8 5DT.

ANNEX 1

Formal adjustments referred to in Article 2

1. Article 3

Read second indent of second paragraph as follows:

“—in Denmark: Article 246 (2) and (3) of the law on civil procedure (Lov om rettingspleje).”

2. Article 27

Read beginning of point 4 as follows:

“4. if the court of the State of origin, in order . . .”.

Read beginning of point 5 as follows:

“5. if the judgment is irreconcilable with an earlier judgment given in a non-contracting State involving . . .”.

3. Article 28

Read end of second paragraph as follows:

“. . . on which the court of the State of origin based its jurisdiction.”.

Read beginning of third paragraph as follows:

“Subject to the provisions of the first paragraph, the jurisdiction of the court of the State of origin may not be reviewed; . . .”.

4. Article 30

Read end of second paragraph as follows;

“. . . if enforcement is suspended in the State of origin by reason of an appeal.”.

5. Article 32

Read second indent as follows:

“—in Denmark, to the *byret*.”.

6. Article 38

Read beginning of first paragraph as follows:

“The court with which the appeal under Article 37(1) is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgment in the State of origin or if the time . . .”.

Read beginning of second paragraph as follows:

“Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the State of origin shall be treated . . .”.

7. Article 43

Read end of Article as follows:

“. . . by the courts of the State of origin . . .”.

8. *Article 44*

Read first paragraph as follows:

“An applicant who, in the State *of origin*, has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

9. *Article 47*

Read point 1 as follows:

“1. documents which establish that, according to the law of the State *of origin*, the judgment is enforceable and has been served;”.

Read end of point 2 as follows:

“... legal aid in the State *of origin*.”.

10. *Article 51*

Read end of Article as follows:

“... enforceable in the State *addressed* under the same conditions as authentic instruments.”.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Donostia-San Sebastián, on the twenty-sixth day of May in the year one thousand nine hundred and eighty-nine.

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of instrument of ratification</i>
Belgium	26 May 1989	
Denmark	26 May 1989	
France	26 May 1989	17 Oct 1990
Germany, Federal Republic of	26 May 1989	
Greece	26 May 1989	
Ireland	26 May 1989	
Italy	26 May 1989	
Luxembourg	26 May 1989	7 Nov 1991
Netherlands	26 May 1989	11 Jan 1990
Portugal	26 May 1989	
Spain	26 May 1989	22 Nov 1990
United Kingdom	26 May 1989	13 Sept 1991

**JOINT DECLARATION
CONCERNING THE RATIFICATION OF THE CONVENTION ON THE
ACCESSION OF THE KINGDOM OF SPAIN AND THE PORTUGUESE
REPUBLIC TO THE 1968 BRUSSELS CONVENTION**

Upon signature of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the 1968 Brussels Convention, done at Donostia-San Sebastián on 26 May 1989,

The Representatives of the Governments of the Member States of the European Communities, meeting within the Council,

Desirous that, in particular with a view to the completion of the internal market, application of the Brussels Convention and of the 1971 Protocol should be rapidly extended to the entire Community,

Welcoming the conclusion on 16 September 1988 of the Lugano Convention which extends the principles of the Brussels Convention to those States becoming parties to the Lugano Convention, designed principally to govern relations between the Member States of the European Economic Community (EEC) and those of the European Free Trade Association (EFTA) with regard to the legal protection of persons established in any of those States and to the simplification of formalities for the reciprocal recognition and enforcement of judgments,

Considering that the Brussels Convention has as its legal basis Article 220 of the Treaty of Rome and is interpreted by the Court of Justice of the European Communities,

Mindful that the Lugano Convention does not affect the application of the Brussels Convention as regards relations between Member States of the European Economic Community, since such relations must be governed by the Brussels Convention,

Noting that the Lugano Convention is to enter into force after two States, of which one is a member of the European Communities and the other a member of the European Free Trade Association, have deposited their instruments of ratification,

Declare themselves ready to take every appropriate measure with a view to ensuring that national procedures for the ratification of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Brussels Convention, signed today, are completed as soon as possible and, if possible, by 31 December 1992 at the latest.

In witness whereof the undersigned have signed this Declaration.

Done at Donostia-San Sebastián on the twenty-sixth day of May in the year one thousand nine hundred and eighty-nine.

{Here follow the signatures on behalf of:

Belgium

Denmark

France

Germany, Federal Republic of

Greece

Ireland

Italy

Luxembourg

Netherlands

Portugal

Spain

United Kingdom}



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