

NORWAY



Treaty Series No. 46 (1962)

Convention
between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Kingdom of Norway
providing for the Reciprocal Recognition
and Enforcement of Judgments in
Civil Matters

London, June 12, 1961

[Ratifications were exchanged on March 5, 1962, and the Convention entered into force on April 6, 1962]

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
July 1962*

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**CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE KINGDOM OF NORWAY
PROVIDING FOR THE RECIPROCAL RECOGNITION AND
ENFORCEMENT OF JUDGMENTS IN CIVIL MATTERS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway;

Desiring to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil matters;

Have agreed as follows:

General

ARTICLE I

For the purposes of the present Convention:

(1) The words "territory of one (or of the other) Contracting Party" mean:

- (a) in relation to the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the United Kingdom"), England and Wales, Scotland, and Northern Ireland and any territories to which the Convention shall have been extended under Article X; and
- (b) in relation to the Kingdom of Norway, Norway.

(2) the word "judgment" means any decision of a court, however described (judgment, order and the like), by which the rights of the parties are determined and which cannot be altered by that court. It includes judgments against which an appeal may be pending or which may still be subject to appeal in the courts of the country of the original court. If the amount of the costs or interest to be paid under a judgment is not fixed by the judgment itself but by a separate court order, such order shall be deemed to be part of the judgment for the purposes of this Convention.

(3) The words "original court" mean in relation to any judgment the court by which such judgment was given; and the words "court applied to", the court in which it is sought to obtain recognition of a judgment or to which an application for the registration of a judgment or for the acceptance of a judgment as enforceable is made.

(4) The words "judgment debtor" mean the person against whom the judgment was given in the original court and include, where necessary, any person against whom such judgment is enforceable under the law of the country of the original court; and the words "judgment creditor", the person in whose favour the judgment was given, and include, where necessary, any other person in whom the rights under the judgment have become vested.

(5) The word "appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution.

ARTICLE II

(1) Subject to the provision of paragraph (2) of this Article, the present Convention shall apply to judgments in civil matters and to judgments given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party, pronounced after the date of the entry into force of the present Convention by the following courts:

- (a) in the case of the United Kingdom, the House of Lords; for England and Wales, the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and Durham; for Scotland, the Court of Session and the Sheriff Court; and for Northern Ireland, the Supreme Court of Judicature; and
- (b) in the case of the Kingdom of Norway, the Supreme Court, the Courts of Appeal, the County Courts and City Courts.

(2) The present Convention shall not apply to:

- (a) judgments given on appeal from courts not referred to in paragraph (1) of this Article;
- (b) judgments in matters of family law or status (including judgments in matrimonial causes or concerning the pecuniary relations between the spouses as such);
- (c) judgments given in proceedings for the recovery of taxes or other charges of a like nature or for the recovery of a fine or other penalty.

(3) The present Convention shall not preclude the recognition and enforcement in the territory of one Contracting Party, in accordance with the municipal law for the time being in force in the country concerned, of judgments pronounced by any court in the territory of the other Contracting Party, being judgments to which the present Convention does not apply or judgments given in circumstances where the provisions of the present Convention do not require such recognition or enforcement.

Recognition of Judgments

ARTICLE III

(1) For the purposes of the present Convention, the recognition of a judgment means that such judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action as between the same parties (judgment creditor and judgment debtor).

(2) Judgments pronounced in the territory of one Contracting Party shall be recognised in the territory of the other subject to the provisions of paragraphs (3) and (4) of this Article and where no objection to the judgment can be established on any of the following grounds:

- (a) in the case in question, the jurisdiction of the original court is not recognised under the provisions of Article IV;

- (b) the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear. It is understood that in all cases where it is proved that notice of the proceedings has been duly served on the defendant in conformity with the provisions of Article 3 or sub-paragraph (1) or (2) of paragraph (a) of Article 4 of the Convention on Legal Proceedings in Civil and Commercial Matters signed between the United Kingdom and Norway on January 30, 1931⁽¹⁾, it shall be deemed to be conclusive evidence that the defendant actually received notice of the proceedings;
- (c) the judgment was, in the opinion of the court applied to, obtained by fraud;
- (d) the recognition of the judgment would be contrary to public policy in the country of the court applied to;
- (e) the judgment debtor, being a defendant in the original proceedings, was a person who, under the rules of public international law, was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court; or the judgment is sought to be enforced against a person who, under the rules of public international law, is entitled to immunity from the jurisdiction of the court applied to.

(3) Where the court applied to is satisfied that proceedings by way of appeal have been instituted against the judgment in the country of the original court, or that such proceedings have not been actually instituted, but the time for appeal has not elapsed under the law of the country of the original court, the court applied to may, in so far as the law of its country permits, recognise the judgment or may refuse to recognise the judgment or adjourn its decision on the recognition of the judgment so as to allow the judgment debtor an opportunity of completing or of instituting such proceedings.

(4) Where the court applied to is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a judgment by a court having jurisdiction in the matter, the court applied to may refuse to recognise the judgment of the original court.

ARTICLE IV

(1) For the purposes of sub-paragraph (a) of paragraph (2) of Article III, the courts of the country of the original court shall, subject to the provisions of paragraphs (2), (3) and (4) of this Article, be recognised as possessing jurisdiction in all cases:

- (a) if the judgment debtor, being a defendant in the proceedings in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the

⁽¹⁾ "Treaty Series No. 35 (1931)", Cmd. 3934.

- purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that court; or
- (b) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court; or
 - (c) if the judgment debtor, being a defendant in the proceedings in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the country of that court; or
 - (d) if the judgment debtor, being a defendant in the original court, was, at the time when the proceedings were instituted, resident in, or being a body corporate had its principal place of business in, the country of that court; or
 - (e) if the judgment debtor, being a defendant in the original court, had an office or place of business in the country of that court and the proceedings in that court were in respect of a transaction effected through or at that office or place.

(2) The provisions of paragraph (1) of this Article shall not apply to judgments where the subject matter of the proceedings is immovable property, or to judgments in respect of movable property if they are conclusive, not only against the parties to the proceedings, but also against any other person claiming an interest in that property which is inconsistent with the judgment in question. Nevertheless the jurisdiction of the original court shall be recognised if such property was situated in the country of the original court at the time of the commencement of the proceedings in the original court.

(3) The provisions of paragraph (1) of this Article shall not apply to:

- (a) judgments in matters of succession, or the administration of the estates of deceased persons;
- (b) judgments in bankruptcy proceedings, or proceedings for the winding up of companies or other bodies corporate.

In the case of judgments given in proceedings of the kind referred to in the present paragraph, the jurisdiction of the original court shall be recognised in all cases where such recognition is in accordance with the law of the country of the court applied to.

(4) The jurisdiction of the original court need not be recognised in the cases specified in sub-paragraphs (d) and (e) of paragraph (1), and in paragraph (2) of this Article if the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of that court.

(5) Recognition of the jurisdiction of the original court shall not be refused on the ground that the original court had no jurisdiction under the law of its own country if under the law of the country of the original court the judgment is conclusive unless and until the proper proceedings are taken to set it aside.

Enforcement of Judgments

ARTICLE V

Judgments pronounced in the territory of one Contracting Party shall be enforced by execution in the territory of the other in the manner provided in Articles VI-VIII of the present Convention provided that the following conditions are fulfilled:

- (a) that they are enforceable by execution (including Avsetning) in the country of the original court;
- (b) there is payable thereunder a sum of money whether by way of costs or otherwise;
- (c) the judgment debt has not been wholly satisfied;
- (d) none of the objections set out in paragraphs (2) and (4) of Article III to the recognition of the judgment can be established;

and provided that, where the court applied to is satisfied that proceedings by way of appeal have been instituted against the judgment in the country of the original court or that such proceedings have not been instituted, but the time for appeal, if any, has not elapsed under the law of the country of the original court, such judgments need not be enforced but the court applied to shall, if so requested and unless the judgment debtor gives security, take such temporary measures in regard thereto as are prescribed by its own law in regard to judgments of the courts of its own country.

ARTICLE VI

(1) In order that any judgment pronounced in the Kingdom of Norway should be enforced in the United Kingdom, an application by a judgment creditor for its registration should, in accordance with the procedure of the court applied to, be made:

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court of Session; and
- (c) in Northern Ireland, to the Supreme Court of Judicature.

(2) The application for registration should be accompanied by:

- (a) a certified copy of the complete judgment authenticated by the court seal;
- (b) an affidavit of the facts required by the rules of the court applied to including a statement as to whether at the date of the application the judgment can be enforced in Norway by Avsetning or ordinary execution;
- (c) a translation of any document required by this paragraph (except any affidavit in English) certified by a sworn translator or by a diplomatic or consular officer of either Contracting Party.

(3) The documents enumerated in paragraph (2) shall require no further authentication.

(4) If an application is made in accordance with paragraphs (1) and (2) of this Article in respect of a judgment fulfilling the conditions laid down in Article V, registration shall be granted.

ARTICLE VII

(1) In order that any judgment pronounced in the United Kingdom should be enforced in the Kingdom of Norway, an application by a judgment creditor for its acceptance as enforceable should, in accordance with the procedure of the court applied to, be duly made in Norway to the court of execution in whose jurisdiction the judgment debtor has his principal establishment (bopel) or to any other court competent by Norwegian Law.

(2) The application should be accompanied by:

(a) a certified copy of the judgment authenticated by the court seal, or in the case of judgments of the sheriff court, authenticated by the signature of the sheriff clerk;

(b) a document issued by the original court giving full particulars as regards the proceedings and the causes of action in respect of which it was given and specifying whether at the date of the application the time for appeal has elapsed without any proceedings by way of appeal having been instituted against the judgment in the United Kingdom;

(c) a translation of any document required by this paragraph certified by a sworn translator or by a diplomatic or consular officer of either Contracting Party.

(3) The documents enumerated in paragraph (2) shall require no further authentication.

(4) If an application is made in accordance with paragraphs (1) and (2) of this Article in respect of a judgment fulfilling the conditions laid down in Article V, it shall be accepted as enforceable.

ARTICLE VIII

(1) Where any judgment has been registered under Article VI, or where any judgment has been accepted as enforceable under Article VII, such judgment shall, as from the date of registration or acceptance as enforceable, and as regards all questions relating to its execution in the country of the court applied to be of the same effect as if it had been a judgment originally given in the country of the court applied to and the court applied to shall have the same control and jurisdiction over the execution of the judgment as it has over the execution of similar judgments given in its own country.

(2) The procedure for the registration of a judgment under Article VI and the procedure for the acceptance of a judgment as enforceable under Article VII shall be made as simple and rapid as possible, and no deposit by way of security for costs shall be required of any person making application for such registration, or for the acceptance of a judgment as enforceable.

(3) After a period of six years, running from the date of the judgment of the original court, if no proceedings have been taken against the judgment

in the country of the original court, or from the date of the judgment given in the last instance if such proceedings have been taken, there shall be no obligation under the present Convention to enforce that judgment.

(4) If it is found by the court applied to that the judgment, in respect of which an application is made for registration under Article VI or for its acceptance as enforceable under Article VII, has been, at the date of such application, partly but not wholly satisfied by payment, the judgment shall be registered or accepted as enforceable in respect of the balance remaining payable at that date, provided that the judgment is otherwise one which would be enforceable under the provisions of the present Convention.

(5) If it is found by the court applied to that the judgment, in respect of which an application is made for registration under Article VI or for its acceptance as enforceable under Article VII, is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered or could have been accepted as enforceable, the judgment may be registered or accepted as enforceable in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(6) If under a judgment a sum of money is payable, which is expressed in a currency other than that of the country of the court applied to, the law of the country of the court applied to shall determine if, and if so, in what manner and in what circumstances, the amount payable under the judgment may or shall be converted into the currency of the country of the court applied to for the purpose of the satisfaction or enforcement of the judgment debt.

(7) When a judgment is registered or accepted as enforceable, there shall, if so requested by the judgment creditor, be included the costs of and incidental to registration or to the application for its acceptance as enforceable and the amount due by way of interest determined in accordance with the law of the country of the court applied to.

Final Provisions

ARTICLE IX

Any difficulties which may arise in connexion with the interpretation or application of this Convention shall be settled through the diplomatic channel.

ARTICLE X

(1) The Government of the United Kingdom may, by a notification given through the diplomatic channel, at any time while the Convention is in force under Article XI, and provided that an agreement has been concluded by an Exchange of Notes on the points mentioned in paragraph (2) of this Article, extend the operation of this Convention to any territory for whose international relations the Government of the United Kingdom are responsible.

(2) Prior to any notification of extension in respect of any territory under the preceding paragraph, an agreement shall be concluded between the Contracting Parties by an Exchange of Notes as to the courts of the territory concerned, which shall be courts to whose judgment the present shall apply and the courts to which application for registration of any judgment shall be made.

(3) The date of the coming into force of any extension under this Article shall be three months from the date of the notification given under paragraph (1) of this Article.

(4) Either of the Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph (1) of this Article, terminate such extension on giving six months' notice of termination through the diplomatic channel.

(5) The termination of the Convention under Article XI shall, unless otherwise expressly agreed by both Contracting Parties, *ipso facto* terminate it in respect of any territory to which it has been extended under paragraph (1) of this Article.

ARTICLE XI

The present Convention shall be subject to ratification. Instruments of ratification shall be exchanged at Oslo. The Convention shall come into force one month after the date on which the instruments of ratification are exchanged⁽²⁾, and shall remain in force for three years after the date of its coming into force. If neither of the Contracting Parties shall have given notice through the diplomatic channel to the other, not less than six months before the expiration of the said period of three years, of intention to terminate the Convention, it shall remain in force until the expiration of six months from the date on which either of the Contracting Parties shall have given notice to terminate it.

⁽²⁾ The Convention entered into force on April 6, 1962.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed the present Convention.

Til bekræftelse av foranstående har de undertegnede, som har behørig fullmakt til dette fra sine respektive regjeringer, undertegnet denne overenskomst.

Done in duplicate at London the 12th day of June, 1961, in the English and Norwegian languages both texts being equally authoritative.

Utfærdiget i 2 eksemplarer i London den 12. juni 1961 i det norske og engelske språk. Begge tekster har samme gyldighet.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

For Regjeringen i Det Forente Kongerike Storbritannia og Nord-Irland:

EDWARD HEATH

For the Government of the Kingdom of Norway:

For Kongeriket Norges Regjering:

ERIK BRAADLAND

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