

Nagħti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

19 ta' April, 2002

ATT Nru. IV ta' l-2002

ATT biex jagħti setgħa lil Malta li tirratifika konvenzjonijiet internazzjonali dwar in-notifika barra mill-pajjiż ta' dokumenti ġudizzjarji u estraġudizzjarji, dwar il-ġbir ta' xieħda barra mill-pajjiż f'affarijiet ta' xorta ċivili jew kummerċjali, dwar l-aċċess internazzjonali għall-ġustizzja, u dwar l-infurzar ta' sentenzi f'affarijiet ta' xorta ċivili u kummerċjali.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

Taqsimha I

Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att huwa Att ta' l-2002 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali. Titolu fil-qosor u bidu fis-seħh.

(2) Dan l-Att għandu jibda jschħ f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'avviż fil-Gazzetta jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal għanijiet differenti u disposizzjonijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx Tifsir. teħtieġ xort'ohra -

"awtorità ċentrali" tfisser l-awtorità mahtura taht l-artikolu 4;

"Il-Konvenzjoni ta' L-Aja ta' l-1965" tfisser il-Konvenzjoni dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti ġudizzjarji u

Estragudizzjarji f'Affarijiet Ċivili jew Kummerċjali, li kienet iffirmata fl-Aja fil-15 ta' Novembru, 1965, li t-test tagħha qiegħed fit-Taqsima A ta' l-Ewwel Skeda li tinsab ma' dan l-Att;

"Il-Konvenzjoni ta' L-Aja ta' l-1970" tfisser il-Konvenzjoni dwar il-Ġbir ta' Xieħda Barra mill-Pajjiż f'Affarijiet Ċivili jew Kummerċjali, li kienet iffirmata fl-Aja fit-18 ta' Marzu, 1970, li t-test tagħha qiegħed fit-Taqsima B ta' l-Ewwel Skeda li tinsab ma' dan l-Att;

"Il-Konvenzjoni ta' L-Aja ta' l-1980" tfisser il-Konvenzjoni dwar l-Aċċess Internazzjonali għall-Ġustizzja, li kienet iffirmata fl-Aja fil-25 ta' Ottubru, 1980, li t-test tagħha qiegħed fit-Taqsima Ċ ta' l-Ewwel Skeda li tinsab ma' dan l-Att;

"Il-Konvenzjoni ta' Lugano ta' l-1988" tfisser il-Konvenzjoni dwar il-Ġurisdizzjoni u l-Infurzar ta' Sentenzi f'Affarijiet Ċivili u Kummerċjali li kienet iffirmata f'Lugano fis-16 ta' Settembru, 1988, inklużi l-Protokolli 1, 2 u 3, li t-testi tal-Konvenzjoni u tal-Protokolli qegħdin fit-Taqsima D ta' l-Ewwel Skeda li tinsab ma' dan l-Att;

"Konvenzjonijiet" kollettivament tfisser Il-Konvenzjoni ta' L-Aja ta' l-1965, Il-Konvenzjoni ta' L-Aja ta' l-1970, Il-Konvenzjoni ta' L-Aja ta' l-1980 u Il-Konvenzjoni ta' Lugano ta' l-1988;

"Malta" għandha l-istess tifsira kif inhu mogħti lilha bl-artikolu 124 tal-Kostituzzjoni;

"Ministru" tfisser il-Ministru responsabbli għall-ġustizzja;

"preskritt" tfisser preskritt b'regolamenti magħmulin mill-Ministru taht dan l-Att;

"Stat Kontraenti", dwar xi waħda mill-Konvenzjonijiet jew dwarhom kollha, u għall-finijiet ta' xi waħda mill-Konvenzjonijiet jew ta' kollha kemm huma hekk kif ikollhom il-forza ta' ligi f'Malta, tfisser dawk l-iStati, minbarra Malta, li minn żmien għal żmien ikunu speċifikati mill-Ministru b'ordni li jsir taht l-artikolu 3;

"Stat Mhux-Kontraenti" tfisser Stat li ma jkunx Stat Kontraenti.

Stati Kontraenti.

3. (1) Il-Ministru jista, b'ordni fil-Gazzetta, minn żmien għal żmien jispeċifika l-iStati Kontraenti, minbarra Malta, għall-finijiet ta' xi waħda jew kull waħda mill-Konvenzjonijiet.

(2) Dak l-ordni għandu jkun jispeċifika d-data meta l-Konvenzjoni partikolari tidhol fis-seħh, bejn Malta u xi Stat speċifikat fl-ordni.

(3) Meta xi Konvenzjoni partikolari tkun tapplika, jew tkun tapplika biss, għal xi territorju partikolari jew għal territorji partikolari speċifikati f'dikjarazzjoni magħmula minn Stat Kontraenti, riferenza għal dak l-iStat fis-subartikoli (1) u (2) għandhom jiftehmu bhala riferenzi għal dak it-territorju jew dawk it-territorji -

(a) taht l-Artikolu 29 tal-Konvenzjoni ta' l-Aja ta' l-1965; jew

(b) taht l-Artikolu 40 tal-Konvenzjoni ta' l-Aja ta' l-1970; jew

(ċ) taht l-Artikolu 32 jew 33 tal-Konvenzjoni ta' l-Aja ta' l-1980,

skond il-każ.

4. (1) Il-funzjonijiet ta' awtorità ċentrali taht il-Konvenzjonijiet, minbarra l-Konvenzjoni ta' Lugano ta' l-1988, hawnhekk iżjed 'il quddiem imsemmija "l-awtorità ċentrali", għandhom jitwettqu minn dak l-uffiċċju, dipartiment jew awtorità hekk kif jista' minn żmien għal żmien jissemma għal dak l-għan mill-Ministru b'avviż fil-Gazzetta.

Awtorità
ċentrali.

(2) L-awtorità ċentrali għandu jkollha wkoll il-funzjonijiet, setgħat u dmirijiet mogħtijin lilha minn jew taht dan l-Att.

Taqsimha II

II-Konvenzjoni ta' l-Aja dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti ġudizzjarji u Estraġudizzjarji f'Affarijiet Ċivili jew Kummerċjali

(15 ta' Novembru, 1965)

5. (1) Bla hsara għad-disposizzjonijiet ta' din it-Taqsimha, id-disposizzjonijiet tal-Konvenzjoni ta' L-Aja ta' l-1965 għandu, bla hsara għar-riservi li hemm fit-Tieni Skeda, jkollhom il-forza ta' liġi f'Malta, u għandhom ikunu japplikaw fil-każijiet kollha, f'affarijiet ċivili u kummerċjali, meta jkun hemm okkażjoni ta' trasmissjoni ta' dokument ġudizzjarju jew estraġudizzjarju li joriġina fi Stat Kontraenti li ma jkunx Malta sabiex jiġi notifikat f'Malta, kif ukoll meta jkun hemm okkażjoni li jiġi trasmess dokument ġudizzjarju jew estraġudizzjarju li joriġina f'Malta għal servizz fi Stat Kontraenti li ma jkunx Malta.

Skop ta' l-
applikabilità.

(2) Dokumenti li jaqgħu taħt id-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att, u li joriġinaw f'Malta, jkunu trasmessi -

(a) direttament mill-awtorità ċentrali, fil-każ ta' dokumenti estraġudizzjarji; u

(b) mir-Reġistratur tal-Qrati, lill-awtorità ċentrali, fil-każ ta' dokumenti ġudizzjarji,

u, bla hsara għad-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att, l-awtorità ċentrali għandha tittrasmetti lura d-deċiżjoni lill-awtorità involuta.

(3) Il-Ministru jista' jagħmel regoli għar-rigward tal-hlas tad-drittijiet u l-hlas lura ta' spejjeż li jsiru mill-awtorità ċentrali fit-trasmissjoni ta' dokumenti taħt dan l-Att.

L-awtorità
ċentrali
tittrasmetti
rapporti dwar
notifiki.

6. (1) Għall-finijiet ta' l-Artikolu 3 tal-Konvenzjoni ta' L-Aja ta' l-1965, l-awtorità ċentrali tkun kompetenti li tressaq talbiet għan-notifika ta' dokumenti li joriġinaw f'Malta lill-awtorità ċentrali ta' xi Stat Kontraenti ieħor, u dokument debitament notifikat mill-awtorità ċentrali skond il-Konvenzjoni ta' L-Aja ta' l-1965 għandu, għall-fini tal-liġi rilevanti f'Malta, jitqies bħala li jkun ġie notifikat kif meħtieġ lill-persuna li jkun ġie lilha indirizzat.

(2) L-awtorità ċentrali għandha f'kull każ ta' talba għal notifika magħmula taħt din it-Taqsima ta' dan l-Att tistabbilixxi xi jkunu l-ispejjeż, jekk ikun hemm, li jitnisslu min-notifiki magħmula mill-awtorità ċentrali u li jistgħu jintalbu minghand l-applikant konformi ma' l-Artikolu 12 tal-Konvenzjoni ta' L-Aja ta' l-1965.

Metodu ta' kif
issir in-notifika.

7. Meta Malta tkun l-iStat indirizzat għall-finijiet ta' l-Artikolu 5 tal-Konvenzjoni ta' L-Aja ta' l-1965, l-awtorità ċentrali għandha tara li d-dokument jiġi notifikat billi d-dokument jintehmeż ma' ittra uffiċjali li tiġi pprezentata fir-Reġistru tal-Qorti Ċivili, Prim'Awla, sabiex din tiġi notifikata lill-persuna indirizzata flimkien ma' dak id-dokument, u dik l-ittra uffiċjali u dokumenti mehmuża għandhom jiġu notifikati skond il-metodi preskritti -

Kap. 12.

(a) fl-artikolu 187(1), (2), (4) jew (7) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hekk kif iċ-ċirkostanzi tal-każ jistgħu jkollhom:

Iżda r-riferenza għal kuraturi li jinhatru mill-qorti fl-imsemmi artikolu 187(7) ma tapplikax; jew

(b) l-artikolu 187(8) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Iżda l-proviso għal dak l-artikolu 187(8) ma jkunx japplika,

hekk kif l-awtorità ċentrali tista' tqis li jkun xieraq li tispeċifika fiċ-ċirkostanzi ta' kull każ.

8. Konformi mad-dikjarazzjoni magħmula minn Malta, u riprodotta fit-Tieni Skeda li tinsab ma' dan l-Att, kif provdut fit-tieni paragrafu ta' l-Artikolu 8 tal-Konvenzjoni ta' L-Aja ta' l-1965, ebda notifika ta' dokumenti ma tista' ssir minn xi Stat Kontraenti lil persuni li jkunu qegħdin Malta, direttament permezz ta' l-aġenti diplomatiċi jew konsulari ta' dak l-iStat, sakemm id-dokument ma jkollux jiġi notifikat lil xi ċittadin ta' l-iStat li fih ikunu originaw id-dokumenti; dik in-notifika għandha ssir permezz ta' dak il-metodu li jkun aċċettat mil-liġi ta' l-iStat li fih joriġina d-dokument, sakemm dik in-notifika ma tkunx tinvolvi xi azzjoni li tmur kontra l-liġi ta' Malta.

Dikjarazzjoni u
ogġezzjonijiet.

9. (1) Id-disposizzjonijiet ta' l-artikoli 10 sa 15 għandhom ikunu japplikaw fil-każijiet kollha, f'affarijiet ċivili jew kummerċjali, meta jkun hemm okkażjoni li jiġi trasmess xi dokument ġudizzjarju jew estraġudizzjarju li joriġina fi Stat Mhux-Kontraenti għal notifika f'Malta.

Applikabilità ta'
artikoli.

(2) Id-disposizzjonijiet ta' l-artikolu 16 għandhom ikunu japplikaw f'kull każ, f'affarijiet ċivili jew kummerċjali, meta jkun hemm okkażjoni li jiġi trasmess xi dokument ġudizzjarju jew estraġudizzjarju li joriġina f'Malta għal notifika fi Stat Mhux-Kontraenti.

(3) F'kull każ, meta l-indirizz tal-persuna li jkollha tiġi notifikata bid-dokument ma jkunx magħruf, l-awtorità ċentrali għandha tirrifjuta li taċċetta d-dokument sabiex dan jiġi trasmess.

(4) Id-disposizzjonijiet ta' dan l-artikolu m'għandhomx jiftiehem bħala li jimponu xi obbligazzjoni fuq l-awtorità ċentrali li teserċita l-funzjonijiet tagħha taht xi wahda mid-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att.

10. (1) L-awtorità jew l-uffiċjal tal-qorti jew il-persuna kompetenti taht il-liġi ta' Stat Mhux-Kontraenti li fih joriġinaw id-dokumenti, hawnhekk iżjed 'il quddiem imsejjaħ "l-applikant", għandu jwassal lill-awtorità ċentrali talba għal notifika skond il-formola stabbilita fit-Taqsima A tat-Tielet Skeda li tinsab ma' dan l-Att, mingħajr ebda hteġġa jew formalità ekwivalenti li ma tkunx dik provduta fl-imsemmija Taqsima A tat-Tielet Skeda.

Rapport dwar
notifika.

(2) (a) Id-dokument li għandu jiġi notifikat jew kopja

tiegħu għandhom jinthemžu mat-talba. Sew it-talba u sew id-dokument għandhom jingħataw f'żewġ kopji u, jekk ma jkunux bl-ilsien Ingliż, għandhom jinthemžu magħhom żewġ traduzzjonijiet awtentikati tagħhom fl-ilsien Ingliż.

(b) Għall-finijiet ta' dan is-subartikolu, "traduzzjoni awtentikata" tfisser traduzzjoni li tiġi awtentikata bħala traduzzjoni vera u korretta ta' l-oriġinal mir-rappreżentant diplomatiku jew konsulari tal-Gvern ta' Malta fl-iStat fejn toriġina it-talba u, jew, id-dokument.

Nuqqas ta' tharis.

11. Jekk l-awtorità ċentrali tqis li t-talba ma tkunx konformi mad-disposizzjonijiet ta' l-artikolu 10, din għandha tgharraf minnufih lill-applikant u tispeċifika l-objezzjonijiet tagħha għat-talba.

Metodu ta' notifika.

12. (1) Id-dokument għandu jiġi notifikat skond ir-regoli li hemm fl-artikolu 5, li għandhom, *mutatis mutandis*, ikunu japplikaw.

(2) Dik il-parti tat-talba li jkun fiha sommarju tad-dokument li jkollu jiġi notifikat, għandha tiġi notifikata mad-dokument, fil-forma stabbilita fit-Tielet Skeda li tinsab ma' dan l-Att.

Riferza tan-notifika.

13. (1) Meta tkun saret notifika, l-awtorità ċentrali għandha timla riferza tan-notifika, li tkun fl-ilsien Ingliż, skond il-formola stabbilita fit-Taqsima B tat-Tielet Skeda li tinsab ma' dan l-Att.

(2) Ir-riferza għandha tkun tgħid li d-dokument ikun ġie notifikat u għandha tinkludi l-mod, il-post u d-data tan-notifika, u l-persuna li lilha jkun ingħata d-dokument. Jekk id-dokument ma jkunx ġie notifikat, ir-riferza għandu jkun fiha dak il-fatt u tagħti r-raġunijiet li żammew in-notifika milli ssir. Ir-riferza għandha wkoll issemmi x'ikunu l-hlasijiet mitluba għall-ispejjeż li jkunu saru għas-servizzi li jkunu ngħataw mill-awtorità ċentrali, li jiġu stabbiliti kif provdut fl-artikolu 14.

(3) L-ċertifikat għandu jintbagħat direttament mill-awtorità ċentrali lill-persuna li tkun applikat għan-notifika.

Spejjeż tan-notifika.

14. L-awtorità ċentrali għandha, f'kull każ ta' talba għal notifika li ssirilha taht din it-Taqsima ta' dan l-Att, tistabbilixxi x'ikunu l-ispejjeż li johorġu mis-servizzi li jkollhom jingħataw minnha fl-għemil tan-notifika. L-awtorità ċentrali m'għandhiex tmexxi 'l quddiem applikazzjoni kemm-il darba l-ispejjeż hekk stabbiliti ma jkunux ġew depożitati għandha jew tkun ingħatat sigurtà biżżejjed għal dak il-pagament. L-ispejjeż hekk stabbiliti għandhom jiġu indikati fir-riferza tan-notifika msemmija fl-artikolu 13.

15. (1) Meta talba għal notifika tkun konformi mad-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att, l-awtorità ċentrali tista' tirrifjuta li tikkonforma magħha biss jekk tqis li t-tħaris tagħha jkun jikkontravvjani is-sovranità jew is-sigurtà ta' Malta. Ma tistax tirrifjuta li tikkonforma ruħha unikament minhabba f'li, taht il-liġi interna ta' Malta, Malta tafferma li għandha ġurisdizzjoni esklużiva fuq il-mertu ta' l-azzjoni in kwistjoni, jew f'li l-liġi interna ta' Malta ma tkunx tippermetti l-azzjoni li in konnessjoni magħha ssir it-talba.

Meta tiġi rifjutata li tithares talba għal notifika.

(2) L-awtorità ċentrali għandha, fil-każ ta' rifjut, minnufih tavża lill-applikant u tagħti r-raġuni għaliex tkun qegħda tirrifjuta.

16. L-awtorità ċentrali tkun kompetenti li tirċievi, tipproċessa u tittrasmetti talbiet għal notifika u dokumenti li joriġinaw f'Malta lill-awtoritajiet kompetenti jew persuni ta' xi Stat Mhux-Kontraenti għan-notifika f'dawk l-iStati -

Trasmissjoni ta' talbiet għal notifika u ta' dokumenti lil Stat Mhux-Kontraenti.

(a) permezz tar-Registratur tal-Qrati, fil-każ ta' dokumenti ġudizzjarji, skond dawk ir-regoli li jistgħu jiġu preskritti; u

(b) permezz ta' l-applikant, fil-każ ta' dokumenti estraġudizzjarji, li għandu jiddepożita, fl-uffiċċju ta' l-awtorità ċentrali, kopja awtentikata tad-dokument fl-ilsien ta' Stat Kontraenti, minbarra Malta, fejn ikun se jiġi trasmess id-dokument.

Taqsima III

II-Konvenzjoni ta' L-Aja dwar il-Ġbir ta' Xieħda Barra mill-Pajjiż f'Affarijiet Ċivili jew Kummerċjali

(18 ta' Marzu, 1970)

17. Bla hsara għad-disposizzjonijiet ta' din it-Taqsima ta' dan l-Att, id-disposizzjonijiet tal-Kapitoli I u II tal-Konvenzjoni ta' L-Aja ta' l-1970 għandu jkollhom il-forza ta' liġi f'Malta.

Skop ta' l-applikabilità.

18. (1) Il-funzjonijiet ta' l-awtorità ċentrali taht il-Konvenzjoni ta' L-Aja ta' l-1970 għandhom jitwettqu mill-awtorità ċentrali mahtura taht l-artikolu 4, u kull ittra rogatorja li tasal mingħand awtorità ġudizzjarja ta' xi Stat Kontraenti, magħmula taht il-Konvenzjoni ta' L-Aja ta' l-1970, għandha tkun indirizzata lill-awtorità ċentrali, li għandha tittrasmettiha lill-qorti kompetenti permezz ta' rikors.

Funzjonijiet u ġurisdizzjoni.

(2) Il-Prim'Awla tal-Qorti Ċivili u, meta x-xhud ikun joqghod Ghawdex, il-Qorti tal-Maġistrati (Ghawdex) fil-kompetenza superjuri

tagħha jew xi qorti oħra li l-Ministru jista' b'ordni jistabbilixxi minn żmien għal żmien, għandu jkollhom ġurisdizzjoni sabiex jesegwixxu ittri rogatorji, li jaslu mingħand awtorità ġudizzjarja ta' Stat Kontraenti, magħmula taht il-Konvenzjoni ta' L-Aja ta' l-1970.

Esekuzzjoni ta' ittri rogatorji.

19. Għall-finijiet ta' l-Artikolu 8 tal-Konvenzjoni ta' L-Aja ta' l-1970, il-persunal tal-qorti ta' l-awtoritajiet li jkunu qegħdin jitolbu l-esekuzzjoni ta' ittra rogatorja magħmula taht il-Konvenzjoni ta' L-Aja ta' l-1970 jistgħu, jekk ikunu awtorizzati mill-awtorità ċentrali, jkunu preżenti fl-esekuzzjoni ta' l-ittra rogatorja.

Meta ma japplikawx ċerti artikoli. Kap. 12.

20. (1) Id-disposizzjonijiet ta' l-artikoli 614(2) u (3), 618, 619, 620 u 622(2) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili m'għandhomx ikunu japplikaw għal xi Stat Mhux-Kontraenti fl-esekuzzjoni ta' ittri rogatorji mibgħutin mill-awtorità ġudizzjarja ta' Stat Kontraenti magħmula taht il-Konvenzjoni ta' L-Aja ta' l-1970.

(2) Il-Ministru jista', b'regoli magħmula taht dan l-artikolu, jistabbilixxi l-proċedura li għandha tiġi segwita fil-każ ta' ittri rogatorji magħmula minn xi Stat Kontraenti, minbarra Malta, għax-xieħda ta' persuna li tkun toqghod Malta.

(3) Bla hsara għad-disposizzjonijiet tas-subartikoli (1) u (2), il-qorti għandha tittrasmetti l-ittra rogatorja, sew direttament lill-awtorità ċentrali ta' l-iStat li jkun qed jagħmel it-talba jew permezz ta' l-awtorità ċentrali ta' Malta.

Riserva.

21. Konformi mar-riserva, li għamlet Malta, skond il-paragrafu 2 ta' l-Artikolu 4 tal-Konvenzjoni ta' L-Aja ta' l-1970, li t-test tagħha jinsab riprodott fit-Tieni Skeda, ittri rogatorji trasmessi permezz ta' l-awtorità ċentrali għandhom isiru f'xi wahda mill-ilsna uffieċjali ta' Malta.

Taqsimha IV

II-Konvenzjoni ta' L-Aja dwar l-Aċċess Internazzjonali għall-ġustizzja

(25 ta' Ottubru, 1980)

Skop ta' l-applikabilità.

22. (1) Bla hsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, il-Konvenzjoni ta' L-Aja ta' l-1980 għandu jkollha l-forza ta' liġi f'Malta.

(2) Bla hsara għad-disposizzjonijiet ta' l-artikoli 23 sa 26, u bla hsara għar-riserva magħmula minn Malta, u riprodotta fir-Raba' Skeda li tinsab ma' dan l-Att, id-disposizzjonijiet tal-Kapitolu I tal-Konvenzjoni ta' L-Aja ta' l-1980 għandu jkollhom il-forza ta' liġi

f'Malta.

(3) Meta l-applikant għall-ghajnuna legali jkun joqghod barra mill-pajjiż, ikun mehtieġ li jintbaghat lill-awtorità ċentrali ċertifikat, mahruġ mill-awtorità trasmittenti mahtura taht l-Artikolu 4 tal-Konvenzjoni ta' L-Aja ta' l-1980, li jkun jiċċertifika li l-applikant ikollu jedd għal dan, u l-awtorità ċentrali għandha, permezz ta' rikors, titlob lill-qorti kompetenti li tikkonferma li l-applikant ikollu jedd għall-ghajnuna legali.

(4) Meta l-applikant ikun joqghod Malta, l-applikant għandu personalment jitlob lill-awtorità ċentrali sabiex din tapplika f'ismu lill-awtorità ċentrali barra mill-pajjiż, permezz ta' applikazzjoni flimkien ma' ċertifikat, mahruġ mill-awtorità trasmittenti mahtura taht l-Artikolu 4 tal-Konvenzjoni ta' L-Aja ta' l-1980, li jkun juri li l-applikant hekk ikollu jedd għall-ghajnuna legali, taht id-disposizzjonijiet tal-Konvenzjoni ta' L-Aja ta' l-1980.

23. L-awtorità ċentrali msemmija fl-artikolu 4 għandha tkun kompetenti li tirċievi u li tiehu azzjoni dwar applikazzjonijiet għall-ghajnuna legali pprezentati taht il-Kapitlu I tal-Konvenzjoni ta' L-Aja ta' l-1980.

Awtorità
ċentrali.

24. (1) Fejn l-awtorità ċentrali tkun tal-fehma li l-applikant ma għandux ikun ammess għall-benefiċċju għall-ghajnuna legali, l-applikant ikollu d-dritt jagħmel rikors lill-Prim' Awla tal-Qorti Ċivili, fi żmien sebat ijiem mid-data li tiġi lill-notifikata d-deċiżjoni ta' l-awtorità ċentrali; il-Qorti tista' -

Gurisdizzjoni.

(a) jew tagħti d-digriet tagħha *in camera*; jew

(b) tagħti d-digriet tagħha waqt seduta bil-miftuh, wara li tisma' l-partijiet,

dwar jekk tilqax jew tiehadx ir-rikors.

(2) Id-deċiżjoni tal-Qorti Ċivili tkun wahda finali.

25. Fejn l-applikant jiġi ammess għall-benefiċċju għall-ghajnuna legali, għandhom ikunu japplikaw id-disposizzjonijiet ta' l-artikoli 918 sa 926 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Proċedura dwar
jekk applikant
għandux
jingħata
għajnuna legali.
Kap. 12.

26. L-awtorità ċentrali għandha tkun l-awtorità trasmittenti għall-finijiet ta' l-Artikolu 5 tal-Konvenzjoni ta' L-Aja ta' l-1980, u jkollha l-funzjoni li tirċievi, tipproċessa u twassal applikazzjonijiet għall-ghajnuna legali lill-awtorità ċentrali xierqa fl-iStat mitlub.

Awtorità
trasmittenti.

Skop ta' l-applikabilità.

27. Bla hsara għad-disposizzjonijiet ta' l-artikolu 28, il-provvedimenti tal-Kapitolu II tal-Konvenzjoni ta' L-Aja ta' l-1980 għandu jkollhom il-forza ta' liġi f'Malta.

Awtorità ċentrali.

28. (1) L-awtorità ċentrali msemmija fl-artikolu 4 għandha twettaq il-funzjonijiet speċifikati fl-Artikolu 16 tal-Konvenzjoni ta' L-Aja ta' l-1980.

(2) L-awtorità ċentrali għandu jkollha s-setgħa li tasal għal deċiżjoni finali dwar applikazzjonijiet li jsirulha minn awtoritajiet trasmittenti ta' xi Stat Kontraenti ieħor, jew b'kull mod ieħor, speċifikat fl-Artikolu 16 tal-Konvenzjoni ta' L-Aja ta' l-1980, sabiex jiġu esegwiti ordnijiet li jistgħu jkunu infurzati u li għalihom japplika l-Artikolu 16 tal-Konvenzjoni ta' L-Aja ta' l-1980, u għall-finijiet tal-Kapitolu II ta' l-imsemmija Konvenzjoni, l-awtorità ċentrali għandha wkoll tkun l-awtorità kompetenti li tiddeċiedi dwar applikazzjonijiet bħal dawk.

(3) Għall-finijiet ta' l-eskuzzjoni tad-deċiżjoni ta' l-applikazzjonijiet imsemmija fis-subartikolu (2) bħala titolu esekuttiv, jkun biżżejjed għall-finijiet ta' dan l-Att li l-applikant jew l-awtorità ċentrali -

- (a) jitolbu hlas mill-ġdid tal-garanzija għall-hlasijiet; jew
- (b) jitolbu ordni għall-ispejjeż.

b'ittra uffiċjali pprezentata fir-reġistru tal-Qorti Ċivili, Prim'Awla, li magħha jkun hemm mehmuża kopja uffiċjali tad-deċiżjoni ta' l-awtorità kompetenti.

(4) Bla hsara għad-disposizzjonijiet tas-subartikolu (3), id-deċiżjoni għandha tikkostitwixxi titolu esekuttiv fil-kuntest tat-tifsira u għall-finijiet tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(5) M'għandu jkun hemm ebda dritt ta' appell kontra d-deċiżjoni ta' l-awtorità ċentrali fil-kazijiet imsemmija f'dan l-artikolu.

Taqsimha V

II-Konvenzjoni ta' Lugano dwar il-ġurisdizzjoni u l-Infurzar ta' Sentenzi f'Affarijiet Ċivili u Kummerċjali

(16 ta' Settembru, 1988)

29. F'din it-Taqsimha ta' dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'ohra - Tifsir.

"qorti" tinkludi qorti jew tribunal fil-kuntest tat-tifsir ta' l-Artikolu 25 tal-Konvenzjoni ta' Lugano ta' l-1988;

"sentenza" għandha l-istess tifsir mogħti lilha bl-Artikolu 25 tal-Konvenzjoni ta' Lugano ta' l-1988.

30. Bla hsara għad-disposizzjonijiet ta' din it-Taqsimha ta' dan l-Att, il-Konvenzjoni ta' Lugano ta' l-1988 u l-Protokoll 1, 2 u 3, u li jinsabu annessi mal-Konvenzjoni ta' Lugano ta' l-1988, u li t-test Inġliż tagħhom qiegħed imniżżel fit-Taqsimha D ta' l-Ewwel Skeda li tinsab ma' dan l-Att, għandu jkollha l-forza ta' liġi f'Malta. Skop ta' l-applikabilità.

31. F'din it-Taqsimha r-referenza għall-Konvenzjoni ta' Lugano ta' l-1988 għandha titqies bħala li tinkludi referenza għall-Protokoll 1 li hemm magħha. Tifsir tal-Konvenzjoni.

32. (1) Il-Ministru jista' b'ordni jestendi l-applikabilità tad-disposizzjonijiet ta' din it-Taqsimha ta' dan l-Att għal dawk l-iStati li jistgħu, minn żmien għal żmien, jaččedu għall-Konvenzjoni ta' Lugano ta' l-1988, u jista' jippreskrivi regolamenti sabiex jagħti sehħ għad-disposizzjonijiet ta' dan l-artikolu. Estensjoni ta' l-applikabilità.

(2) Il-Ministru jista' iktar minn hekk b'regolamenti jissostitwixxi, jemenda, iżid mat-test ta', jew ihassar minn, il-Konvenzjoni ta' Lugano ta' l-1988 u l-Protokoll 1 li hemm magħha kif riprodotti fit-Taqsimha D ta' l-Ewwel Skeda li tinsab ma' dan l-Att hekk kif jista' jkun meħtieġ, inċidentali jew konsegwenzjali għall-aččessjoni għal dik il-Konvenzjoni minn Malta jew minn xi Stat ieħor.

33. (1) Daqstant kemm jista' jkun hemm xi konflitt bejn id-disposizzjonijiet tal-Konvenzjoni ta' Lugano ta' l-1988 u dawk tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, jew kull liġi oħra f'Malta, id-disposizzjonijiet ta' din it-Taqsimha ta' dan l-Att u tal-Konvenzjoni ta' Lugano ta' l-1988 għandhom jipprevalu għar-rigward ta' l-affarijiet regolati mill-imsemmija Konvenzjoni; xort'ohra, d-disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u ta' kull liġi oħra għandhom jibqgħu japplikaw. Ġurisdizzjoni.

(2) Salv kif permess jew provdut bil-Konvenzjoni ta' Lugano ta' l-1988, u b'mod partikolari bis-Sezzjonijiet 2 sa 6 tat-*Titolu II* ta' dik il-Konvenzjoni, il-ġurisdizzjoni, f'affarijiet li jaqghu fl-iskop tal-Konvenzjoni, m'għandhiex tiġi eżerċitata mill-qrati f'Malta fuq persuni domiċiljati fi Stat Kontraenti iehor, hliief, madankollu, li sakemm tibda ssehħ f'Malta l-Konvenzjoni Internazzjonali fuq l-Arrest ta' Bastimenti li jbahhru f'Medda lil hinn mill-Kosta, ffirmata fi Brussell fl-10 ta' Mejju, 1952, ebda haġa m'għandha tolgot il-ġurisdizzjoni tal-qrati ta' Malta msejsa fuq jew dwar l-arrest ta' bastimenti.

Atti
kawtelatorji.

Kap. 12

34. Skond l-Artikolu 24 tal-Konvenzjoni ta' Lugano ta' l-1988, meta l-proċedimenti jkunu nġiebu, jew x'aktax li jingiebu, fi Stat Kontraenti iehor dwar xi haġa li għaliha japplika dak l-Artikolu, il-qorti f'Malta għandu jkollha s-setgħa li tagħmel dawk l-ordnijiet u li tichu dawk il-miżuri, skond id-disposizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, bhallikieku l-proċedimenti kienu nġiebu jew x'aktarx li kienu jingiebu f'Malta, u d-disposizzjonijiet ta' l-imsemmi Kodiċi li jehtieġu l-preżentata ta' azzjoni fil-qorti sabiex tiġi nfużata l-pretensjoni salvagwardata b'dawk il-miżuri għandhom jitqiesu li jkunu sodisfatti jekk dik l-azzjoni tingieb quddiem xi qorti li jkollha ġurisdizzjoni skond il-Konvenzjoni fiż-żmien stipulat fil-Kodiċi.

Infurzar ta'
sentenzi.

35. (1) Sentenza li, skond l-Artikolu 31 tal-Konvenzjoni ta' Lugano ta' l-1988, tkun esegwibbli f'Malta għandha tiġi rreġistrata mill-qorti li tirreġistra skond il-proċedura li tista', minn żmien għal żmien, tiġi preskritta. Il-proċeduri għandhom jinbdew b'rikors quddiem il-qorti li tirreġistra, li mbagħad għandha tghaddi biex tagħti d-deċiżjoni tagħha skond Sezzjoni II tal-Konvenzjoni ta' Lugano ta' l-1988.

(2) Għall-finijiet tas-subartikolu (1) -

"il-qorti li tirreġistra" tfisser il-Qorti Ċivili, Prim'Awla, jew kull qorti oħra li l-Ministru jista' b'ordni jsemmi, għall-finijiet ta' l-Artikolu 32 tal-Konvenzjoni ta' Lugano ta' l-1988; u

"preskritta" tfisser preskritta b'regoli magħmulin mill-Ministru taht dan l-artikolu.

(3) Meta sentenza tiġi rreġistrata taht dan l-artikolu, kull nefqa u spiża ta' dik ir-reġistrazzjoni għandhom jingabru bhallikieku dawn kienu ammonti li jingabru bis-saħħa tas-sentenza.

(4) Bla hsara għad-disposizzjonijiet ta' l-Artikolu 39 tal-Konvenzjoni ta' Lugano ta' l-1988, ta' din it-Taqsima ta' dan l-Att u ta' kull regolamenti li jsiru tahtu, sentenza rreġistrata taht dan l-

artikolu għandha, għall-finijiet ta' l-infurzar tagħha jkollha l-istess forza u effett, u l-qorti li tirreġistra għandu jkollha l-istess setgħat, u l-proċeduri għall-infurzar tagħha jew dwarha jistgħu jittiehdu, bħallikieku s-sentenza kienet oriġinarjament mogħtija mill-qorti li tirreġistra.

36. Appell minn deċiżjoni tal-qorti li tirreġistra jew ma tirreġistrax sentenza għandu jsir quddiem il-Qorti ta' l-Appell skond il-proċedura stabbilita għall-appelli fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u d-disposizzjonijiet tat-Titolu IV tat-Tielet Ktieb ta' l-imsemmi Kodiċi għandhom ikunu japplikaw għal dawk id-deċiżjonijiet.

Appelli.

Kap. 12.

37. (1) Bla hsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, sentenza mogħtija minn qorti ta' Stat Kontraenti f'xi proċeduri m'għandhiex tkun rikonossuta u infurzata f'Malta jekk -

Sentenzi li ma jgħux rikonossuti.

(a) l-għemil ta' dawk il-proċeduri f'dik il-qorti kien kuntrarju għal xi ftehim li tahtu t-tilwima kellha tiġi xort'oħra rranġata milli bi proċeduri fil-qorti ta' dak il-pajjiż; u

(b) dawk il-proċeduri ma nġiebox f'dik il-qorti minn, jew bil-qbil tal-persuna li kontriha tkun ingħatat is-sentenza; u

(ċ) dik il-persuna ma tkunx għamlet kontro-talba fil-proċeduri jew xort'oħra qegħdet lilha nnifisha taht il-gurisdizzjoni ta' dik il-qorti.

(2) Id-disposizzjonijiet tas-subartikolu (1) m'għandhomx ikunu japplikaw meta l-ftehim imsemmi fil-paragrafu (a) ta' dak is-subartikolu kien wiehded illegali, null u li ma jistax jiġi nfurzat u ma setgħax jiġi esegwit għal raġunijiet mhux attribwibbli għall-htija tal-parti li tagħmel il-proċeduri li fihom tkun ingħatat is-sentenza.

(3) Ebda haġa fis-subartikolu (1) m'għandha tolqot ir-rikonossiment jew l-infurzar f'Malta ta' sentenza li tkun meħtieġa li tiġi hekk rikonossuta jew infurzata taht id-disposizzjonijiet tal-Konvenzjoni ta' Lugano ta' l-1988, bħala li għandha l-forza ta' liġi f'Malta.

38. (1) Għall-finijiet ta' din it-Taqsima ta' dan l-Att, individwu jitqies li jkun domiciljat f'Malta jekk, u biss jekk -

Domicilju ta' individwi.

(a) huwa jkun residenti f'Malta; u

(b) ix-xorta u ċ-ċirkostanzi tar-residenza tiegħu jkunu jindikaw li jkollu konnessjoni sostanzjali ma' Malta.

(2) Għall-finijiet ta' din it-Taqsima ta' dan l-Att, individwu jitqies li jkun domiciljat f'xi Stat ieħor li mhux Malta jekk, u biss jekk -

(a) huwa jkun residenti f'dak l-iStat: u

(b) ix-xorta u ċ-ċirkostanzi tar-residenza tiegħu jkunu jindikaw li jkollu konnessjoni sostanzjali ma' dak l-iStat.

(3) Fil-każ ta' individwu li -

(a) jkun residenti f'Malta jew ikun residenti fi Stat li ma jkunx Malta: u

(b) kien hekk residenti għall-aħħar sitt xhur jew iktar,

il-htigiet tas-subartikoli (1)(b) u (2)(b) għandhom jitqiesu bhala li jkun twettqu kemm-il darba ma jiġix ippruvat il-kuntrarju.

Domicilju ta' korp ġuridiku jew assoċjazzjoni.

39. (1) Għall-finijiet ta' din it-Taqsima ta' dan l-Att, il-lok ta' ġestjoni ta' korp ġuridiku jew assoċjazzjoni għandu jitqies bhala d-domicilju ta' dak il-korp ġuridiku jew ta' dik l-assoċjazzjoni.

(2) Korp ġuridiku jew assoċjazzjoni għandhom jitqiesu bhala li għandhom il-lok ta' ġestjoni tagħhom f'Malta jekk, u biss jekk -

(a) dawn ikunu inkorporati jew iffurmati taht il-liġi ta' Malta u jkollhom l-uffiċċju reġistrat tagħhom jew xi indirizz uffiċjali ieħor tagħhom f'Malta: jew

(b) il-maniġġ u l-kontroll ċentrali tagħhom jiġi eżerċitat f'Malta.

(3) Bla ħsara għad-disposizzjonijiet tas-subartikolu (4), korp ġuridiku jew assoċjazzjoni għandhom jitqiesu bhala li għandhom il-lok ta' ġestjoni tagħhom fi Stat li ma jkunx Malta jekk, u biss jekk -

(a) kienu inkorporati jew iffurmati taht il-liġi ta' dak l-iStat u jkollhom l-uffiċċju reġistrat tagħhom jew xi indirizz uffiċjali ieħor tagħhom hemmhekk: jew

(b) il-maniġġ u l-kontroll ċentrali tagħhom jiġi eżerċitat f'dak l-iStat.

(4) Korp ġuridiku jew assoċjazzjoni m'għandhomx jitqiesu bhala li għandhom il-lok ta' ġestjoni tagħhom fi Stat Kontraenti li ma jkunx Malta jekk jintwera li l-qrati ta' dak l-iStat ma jqisuhomx bhala li għandhom il-lok ta' ġestjoni tagħhom hemmhekk.

(5) F'dan l-artikolu -

"assoċjazzjoni" tfisser korp mhux korporat ta' persuni;

"korp ġuridiku" tfisser xi entità li jkollha personalità ġuridika distinta minn dik tal-membri tagħha;

"indirizz uffiċjali", dwar korp ġuridiku jew assoċjazzjoni, tfisser indirizz li dawn ikunu meħtieġa bil-liġi li jirreġistraw, javżaw jew iżommu bil-ghan li fih jirċievu avvizi jew komunikati oħra:

Iżda meta l-liġi ta' Malta jew ta' l-iStat involut ma tkunx teħtieġ ir-reġistrazzjoni, in-notifikazzjoni jew iż-żamma ta' xi indirizz bhal dak, ir-riferenza f'dan l-artikolu għal indirizz uffiċjali għandha titqies bhallikieku ma saritx.

40. Għall-finijiet ta' din it-Taqsima ta' dan l-Att, *trust* għandha titqies bħala li tkun domiciljata Malta jekk din tkun reġistrata f'Malta taħt l-Att dwar it-*Trusts* jew jekk il-liġi Maltija tkun is-sistema ta' liġi li magħha t-*trust* ikollha l-cqreb konnessjoni u dik l-aktar reali.

Id-domicilju ta' *Trusts*.

Kap. 331.

Taqsimha VI

Disposizzjonijiet ġenerali

41. (1) Il-Ministru jista' jagħmel regolamenti li bihom jippreskrivi kull haġa li bis-saħħa ta' dan l-Att tenħtieġ li tiġi preskritta u ġeneralment għat-twettiq tad-disposizzjonijiet ta' dan l-Att.

Regolamenti.

(2) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1) jistgħu jsiru regolamenti, b'mod partikolari, sabiex jistabbilixxu il-kriterji li għandhom jiġu applikati mill-awtorità ċentrali biex jiġu determinati l-ispejjeż li jkunu saru minnha skond id-disposizzjonijiet ta' l-artikolu 14.

(3) Mingħajr preġudizzju għall-ġeneralità tas-subartikolu (1), dawk ir-regolamenti jistgħu, *mutatis mutandis*, ikunu jipprovdu dwar il-proċedura għal rikorsi quddiem il-qorti taħt xi disposizzjoni tat-Taqsima V ta' dan l-Att u dwar id-dokumenti li għandhom jingiebu u l-avvizi u l-informazzjoni li għandhom jingħataw f'dak li għandu x'jaqşam ma' xi rikors bhal dak.

42. Fl-Ewwel, it-Tieni u r-Raba' Skedi li jinsabu ma' dan l-Att, jekk ikun hemm xi konflitt bejn it-test Inġliż u dak Malti, it-test Inġliż għandu jipprevali.

Konflitt bejn it-testi.

A 582

Ratifika ta'
Konvenzjoni-
jiet.

43. Bis-sahha ta' dan l-Att, il-Gvern ta' Malta huwa b'dan awtorizzat li jirratifika kull jew xi waħda mill-Konvenzjonijiet.

Emendi
konsegwenzjali.

44. Il-liġijiet fl-Ewwel Kolonna fil-Hames Skeda li tinsab ma' dan l-Att għandu jkollhom seħh skond l-emendi li jidhru relattivament għalihom fit-Tieni Kolonna ta' dik l-Iskeda.

SKEDI

L-EWWEL SKEDA

(Artikoli 2, 30, 32 u 42)

Taqsima A

**IL-KONVENZJONI TA' L-AJA DWAR IN-NOTIFIKA BARRA MILL-PAJJIŻ
TA' DOKUMENTI ĠUDIZZJARJI U ESTRAĠUDIZZJARJI F'AFFARIJET
ĊIVILI JEW KUMMERĊJALI**

(15 ta' Novembru, 1965)

L-iStati firmatarji ta' din il-preżenti Konvenzjoni,

Billi jixtiequ johlqu mezz xierqa sabiex jiżguraw li dokumenti ġudizzjarji u estraġudizzjarji li għandhom jiġu notifikati barra mill-pajjiż jingiebu għall-attenzjoni tal-persuna indirizzata fi żmien suffiċjenti,

Billi jixtiequ jtejbu l-organizzazzjoni ta' assistenza ġudizzjarja reċiproka għal dak l-ghan billi tiġi simplifikata u mhaffa l-proċedura,

Irrisolwew li jikkonkludu Konvenzjoni f'dan is-sens u qablu dwar dawn id-disposizzjonijiet li ġejjin:

Artikolu 1

Il-preżenti Konvenzjoni għandha tkun tapplika fil-każijiet kollha, f'affarijiet ċivili jew kummerċjali, meta jkun hemm okkażjoni li jitwassal xi dokument ġudizzjarju jew estraġudizzjarju għan-notifika barra mill-pajjiż.

Din il-Konvenzjoni m'għandhiex tapplika meta l-indirizz tal-persuna li tkun se tiġi notifikata bid-dokument ma jkunx wieħed magħruf.

KAPITOLU I

DOKUMENTI ĠUDIZZJARJI

Artikolu 2

Kull Stat Kontraenti għandu jahtar Awtorità Ċentrali li jkollha r-responsabbiltà li tirċievi talbiet għal notifiki li jiġu minn xi Stat Kontraenti ieħor u li tipproċedi b'mod konformi mad-disposizzjonijiet ta' l-Artikoli 3 sa 6.

Kull Stat għandu jorganizza l-Awtorità Ċentrali b'mod konformi mal-liġi tiegħu.

Artikolu 3

L-awtorità jew l-uffiċjal ġudizzjarju kompetenti taht il-liġi ta' l-iStat mnejn joriġinaw id-dokumenti għandu jibgħat lill-Awtorità Ċentrali ta' l-iStat indirizzat talba konformi mal-mudell anness ma' din il-preżenti Konvenzjoni, mingħajr ebda hteġa ta' xi leġislazzjoni jew ta' xi formalità oħra ekwivalenti.

Id-dokument li għandu jiġi notifikat jew kopja tiegħu għandu jiġi anness mat-talba. Sew it-talba sew id-dokument għandhom jingħataw doppji.

Artikolu 4

Jekk l-Awtorità Ċentrali tqis li t-talba ma tkunx konformi mad-disposizzjonijiet tal-preżenti Konvenzjoni, hija għandha minnufih tgħarraf lill-applikant u tispeċifika x'ikunu l-oġġezzjonijiet tagħha għal dik it-talba.

Artikolu 5

L-Awtorità Ċentrali ta' l-iStat indirizzat għandha hi nnifisha tinnotifika d-dokument jew inkella għandha tagħmel arrangamenti biex dan jiġi notifikat minn aġenzija adattata, jew -

(a) permezz ta' metodu preskritt bil-liġi lokali tagħha għas-servizz ta' dokumenti f'azzjonijiet domestiċi lil persuni li jkunu fi hdan it-territorju lokali, jew

(b) b'xi metodu partikolari mitlub mill-applikant, kemm-il darba dak il-metodu ma jkunx wieħed inkompatibbli mal-liġi ta' l-iStat indirizzat.

Bla hsara għas-subparagrafu (b) ta' l-ewwel paragrafu ta' dan l-Artikolu, id-dokument jista' dejjem jiġi notifikat billi jintbagħat lil persuna indirizzata li taċċettah volontarjament.

Jekk id-dokument għandu jiġi notifikat taht l-ewwel paragrafu hawn aktar qabel, l-Awtorità Ċentrali tista' titlob li d-dokument jinkiteb jew jiġi tradott fil-lingwa uffiċjali jew xi wahda mil-lingwi uffiċjali ta' l-iStat indirizzat.

Dik il-parti tat-talba, fil-formola mehmuża mal-preżenti Konvenzjoni, li jkun fiha sommarju tad-dokument li jkun se jiġi notifikat, għandha tiġi notifikata flimkien mad-dokument.

Artikolu 6

L-Awtorità Ċentrali ta' l-iStat indirizzat jew kull awtorità li tista' tkun ġiet mahtura għal dak l-għan, għandha timla ċertifikat fl-għamla tal-mudell anness mal-preżenti Konvenzjoni.

L-ċertifikat għandu jkun fih li d-dokument jkun gie notifikat u għandu

jinkludi l-metodu, il-post u d-data tan-notifika u l-persuna li lilha jkun inghata d-dokument. Jekk id-dokument ma jkunx ġie notifikat, iċ-ċertifikat għandu jiddikjara x'ikunu r-raġunijiet li minhabba fihom ma tkunx saret in-notifika.

L-applikant jista' jehtieg li ċertifikat li ma jkunx tlesta minn Awtorità Ċentrali jew minn awtorità ġudizzjarja għandu jkun kontrosenjat minn xi wahda minn dawn l-awtoritajiet.

Iċ-ċertifikat għandu jintbaghat direttament lill-applikant.

Artikolu 7

Il-frazzjiet komuni fil-mudell anness mal-preżenti Konvenzjoni għandhom fil-kazijiet kollha jinkitbu jew bil-Franċiż jew bl-Ingliż. Dawn jistgħu wkoll jinkitbu bil-lingwa uffiċjali, jew b'xi wahda mil-lingwi uffiċjali, ta' l-iStat mnejn joriġinaw id-dokumenti.

Il-vojt korrispondenti għandu jimtela jew bil-lingwa ta' l-iStat indirizzat jew bil-Franċiż jew bl-Ingliż.

Artikolu 8

Kull Stat Kontraenti jkun hieles li jagħmel in-notifiki ta' dokumenti ġudizzjarji lil persuni li jkunu jinsabu barra mill-pajjiż, minghajr ma tiġi applikata ebda kompulsjoni, direttament permezz ta' l-aġenti diplomatiċi jew konsulari tiegħu.

Kull Stat jista' jiddikjara li jkun kuntrarju għal dak is-servizz fi hdan it-territorju tiegħu, kemm-il darba d-dokument ma jkunx se jiġi notifikat lil ċittadin ta' l-iStat fejn joriġinaw id-dokumenti.

Artikolu 9

Kull Stat Kontraenti jkun hieles, b'żieda ma' dan, li juża kanali konsulari biex iwassal dokumenti għall-fini ta' notifika, lil dawk l-awtoritajiet ta' Stat Kontraenti ieħor li jkunu msemmija minn dan l-aħhar Stat għal dan l-għan.

Kull Stat Kontraenti jista', jekk ikun hemm ċirkostanzi eċċezzjonali li jkunu hekk jehtiegu, juża kanali diplomatiċi għall-istess fini.

Artikolu 10

Sakemm l-iStat tad-destinazzjoni ma joġġezzjonax, il-preżenti Konvenzjoni m'għandhiex tinterferixxi -

- (a) mal-helsien li jintbagħtu dokumenti ġudizzjarji, b'kanali postali, direttament lil persuni barra mill-pajjiż;

(b) mal-helsien ta' uffiċjali ġudizzjarji, uffiċjali jew persuni kompetenti oħra ta' l-iStat ta' oriġni sabiex dawn jagħmlu n-notifika ta' dokumenti ġudizzjarji direttament tramite l-uffiċjali ġudizzjarji, l-uffiċjali jew persuni oħra kompetenti ta' l-iStat tad-destinazzjoni;

(ċ) mal-helsien ta' persuna interessata fi proċediment ġudizzjarju biex tagħmel in-notifika ta' dokumenti ġudizzjarji direttament tramite l-uffiċjali ġudizzjarji, l-uffiċjali jew il-persuni oħra kompetenti ta' l-iStat tad-destinazzjoni.

Artikolu 11

Il-preżenti Konvenzjoni m'għandhiex tipprevjeni xi żewġ Stati Kontraenti jew iktar milli jaqblu li jippermettu, għall-fini tan-notifika ta' dokumenti ġudizzjarji, kanali ta' trasmissjoni minbarra dawk li hemm provdut dwarhom fl-Artikoli preċedenti u, b'mod partikolari, l-komunikazzjoni diretta bejn l-awtoritajiet rispettivi tagħhom.

Artikolu 12

In-notifika ta' dokumenti ġudizzjarji li joriġinaw fi Stat Kontraenti m'għandhomx jagħtu lok għal xi hlas jew rimborż ta' taxxi jew spejjeż għas-servizzi mogħtija mill-iStat indirizzat.

L-applikant għandu jhallas jew jirrifondi l-ispejjeż li jitnisslu minn -

(a) l-impieg ta' uffiċjal ġudizzjarju jew ta' persuna kompetenti taht il-liġi ta' l-iStat tad-destinazzjoni,

(b) l-użu ta' xi metodu ta' servizz partikolari.

Artikolu 13

Meta talba għal notifika tkun konformi mal-pattijiet tal-preżenti Konvenzjoni, l-iStat indirizzat jista' jirrofta li jħares dawk il-pattijiet biss jekk dan ikun iqis li dak it-tħaris ikun jikser is-sovranità jew is-sigurtà tiegħu.

Ma jistax jirrofta li jħarishom unikament għaliex, taht il-liġijiet tiegħu, l-iStat ikun qed jippretendi li jkollu ġurisdizzjoni eskklusiva fuq il-mertu ta' l-azzjoni jew li l-liġijiet tiegħu ma jkunux jippermettu l-azzjoni li fuqha l-applikazzjoni tkun imsejsa.

L-Awtorità Ċentrali għandha, fil-każ ta' rifjut, minnufih tgħarraf lill-applikant u tiddikjara r-raġunijiet għal dak ir-rifjut.

Artikolu 14

Id-diffikultajiet li jistgħu jinqalghu f'dak li għandu x'jaqsam mat-

trasmissjoni ta' dokumenti ġudizzjarji għan-notifika għandhom jiġu rranġati permezz tal-kanali diplomatiċi.

Artikolu 15

Meta ċitazzjoni jew xi dokument ekwivalenti kellhom jiġu trasmessi barra mill-pajjiż għall-finijiet tan-notifika, taht id-disposizzjonijiet tal-preżenti Konvenzjoni, u l-konvenut ma jkunx deher, m'għandhiex tinghata sentenza qabel ma jiġi stabbilit li -

(a) id-dokument ġie notifikat b'metodu preskritt mil-liġijiet lokali ta' l-iStat indirizzat għas-servizz ta' dokumenti f'azzjonijiet domestiċi lil persuni li jkunu fi hdan it-territorju tiegħu, jew

(b) id-dokument kien attwalment mogħti lill-konvenut jew imwassal fir-residenza tiegħu b'xi metodu ieħor li hemm provdut dwaru b'din il-Konvenzjoni,

u li f'kull wieħed minn dawn il-każijiet in-notifika jew it-twassil saru fi żmien suffiċjenti sabiex il-konvenut ikun jista' jagħmel id-difiża tiegħu.

Kull Stat Kontraenti jkun hieles li jiddikjara li l-imhalled, minkejja l-provedimenti ta' l-cwwel paragrafu ta' dan l-Artikolu, jista' jagħti sentenza ukoll jekk ma jkunu ġew riċevuti ebda riferita tan-notifika jew twassil, jekk kull waħda minn dawn il-kondizzjonijiet li ġejjin jitwettqu -

(a) id-dokument ikun twassal b'xi wieħed mill-metodi li hemm provdut dwarhom f'din il-Konvenzjoni,

(b) jkun għadda perjodu ta' żmien ta' mhux inqas minn sitt xhur, meqjus bhala wieħed adegwat mill-imhalled fil-każ partikolari, mid-data tat-twassil tad-dokument,

(ċ) ma jkun ġie riċevut ebda ċertifikat ta' liema xorta jkun, ukoll jekk ikun sar kull sforz raġonevoli sabiex dan jinkiseb tramite l-awtoritajiet kompetenti ta' l-iStat indirizzat.

Minkejja d-disposizzjonijiet tal-paragrafi preċedenti l-imhalled jista' jordna, f'każ ta' urġenza, kull miżura provviżorja jew protettiva.

Artikolu 16

Meta ċitazzjoni jew dokument ekwivalenti kellu jintbagħat barra mill-pajjiż għall-fini li jiġi notifikat, taht id-disposizzjonijiet tal-preżenti Konvenzjoni, u tkun inghatat sentenza kontra konvenut li jkun baqa' kontumaċi, l-imhalled ikollu s-setgħa li jillibera lill-konvenut mill-effetti ta' l-iskadenza tat-termini għall-appell mis-sentenza jekk jitwettqu dawn il-kondizzjonijiet li ġejjin -

(a) il-konvenut, bla ebda htija min-naħa tiegħu, ma kienx jaf bid-dokument fi żmien suffiċjenti biex jagħmel id-difiża tiegħu, jew ma kienx jaf bis-sentenza fi żmien suffiċjenti biex jagħmel appell, u

(b) il-konvenut ikun żvela difiża *prima facie* għall-azzjoni fuq il-merti.

Rikors għal tali liberazzjoni jista' jiġi ppreżentat biss fi żmien raġonevoli wara li l-konvenut ikun sar jaf bis-sentenza.

Kull Stat Kontraenti jista' jiddikjara li r-rikors ma jkunx ser jintlaħaq jekk dan jiġi ppreżentat wara l-iskadenza ta' żmien li jiġi msemmi fid-dikjarazzjoni, iżda li f'ebda każ m'għandu jkun inqas minn sena wara d-data tas-sentenza.

Dan l-Artikolu m'għandux japplika għal sentenzi li jolqtu l-istatus jew il-kapaċità ta' persuni.

KAPITOLU II

DOKUMENTI ESTRAĠUDIZZJARJI

Artikolu 17

Dokumenti estraġudizzjarji li jkunu ġejjin minn awtoritajiet u minn uffiċjali ġudizzjarji ta' xi Stat Kontraenti jistgħu jitwasslu għall-fini tan-notifika fi Stat Kontraenti iħor bil-metodi u taħt id-disposizzjonijiet tal-preżenti Konvenzjoni.

KAPITOLU III

KLAWSOLI ĠENERALI

Artikolu 18

Kull Stat Kontraenti jista' jaħtar awtoritajiet oħra b'żieda ma' l-Awtorità Ċentrali u għandu jistabbilixxi sa fejn dawn ikunu kompetenti.

L-applikant għandu, madankollu, f'kull każ, ikollu l-jedd li jindirizza talba direttament lill-Awtorità Ċentrali.

Stati Federali jkunu hiġsli li jaħtru aktar minn Awtorità Ċentrali waħda.

Artikolu 19

Sal-limitu li l-liġi lokali ta' Stat Kontraenti tkun tippermetti metodi ta' twassil, li ma jkunux dawk li hemm provdut dwarhom fl-Artikoli preċedenti, ta' dokumenti li jkunu ġejjin minn barra mill-pajjiż, għan-notifika fi hdan it-territorju tiegħu, il-preżenti Konvenzjoni m'għandhiex tolgot disposizzjonijiet bħal dawk.

Artikolu 20

Il-preżenti Konvenzjoni m'għandhiex tipprevjeni ftehim bejn xi żewġ Stati Kontraenti jew iktar li jiddispensaw -

- (a) mill-htieġa għal kopji doppji ta' dokumenti trasmessi kif meħtieġ bit-tieni paragrafu ta' l-Artikolu 3,
- (b) mill-htieġet tal-lingwa tat-tielet paragrafu ta' l-Artikolu 5 u l-Artikolu 7,
- (ċ) mid-disposizzjonijiet tar-raba' paragrafu ta' l-Artikolu 5,
- (d) mid-disposizzjonijiet tat-tieni paragrafu ta' l-Artikolu 12.

Artikolu 21

Kull Stat Kontraenti għandu, fil-waqt tad-depożitu ta' l-istrument tiegħu ta' ratifika jew ta' aċċessjoni, jew f'xi data ulterjuri, jgħarraf lill-Ministeru għall-Affarjiet Barranin ta' l-Olanda b'dan li ġej -

- (a) il-hatra ta' awtoritajiet, konformi ma' l-Artikoli 2 u 28,
- (b) il-hatra ta' l-awtorità kompetenti li timla ċ-ċertifikat skond l-Artikolu 6,
- (ċ) il-hatra ta' l-awtorità kompetenti li tirċievi dokumenti trasmessi b'kanali konsulari, konformi ma' l-Artikolu 9.

Kull Stat Kontraenti għandu bl-istess mod jgħarraf lill-Ministru, meta jkun adattat -

- (a) bl-opposizzjoni għall-użu ta' metodi ta' twassil konformi ma' l-Artikoli 8 u 10,
- (b) dikjarazzjonijiet konformi mat-tieni paragrafu ta' l-Artikolu 15 u t-tielet paragrafu ta' l-Artikolu 16,
- (ċ) kull modifika tal-hatriet hawn qabel imsemmija, opposizzjonijiet u dikjarazzjonijiet.

Artikolu 22

Meta l-Partijiet fil-preżenti Konvenzjoni jkunu wkoll il-Partijiet għal xi wahda jew iż-żewġ Konvenzjonijiet dwar il-proċedura ċivili ffirmati fl-Aja fis-17 ta' Lulju 1905, u fl-1 ta' Marzu 1954, din il-konvenzjoni għandha tiegħu post bejniethom ma' l-Artikoli 1 sa 7 tal-Konvenzjonijiet li saru aktar qabel.

Artikolu 23

Il-preżenti Konvenzjoni m'għandhiex tolqot l-applikazzjoni ta' l-Artikolu 23 tal-Konvenzjoni dwar il-proċedura ċivili ffirmata fl-Aja fis-17 ta' Lulju 1905, jew ta' l-Artikolu 24 tal-Konvenzjoni dwar il-proċedura ċivili ffirmata fl-Aja fl-1 ta' Marzu 1954.

Dawn l-Artikoli għandhom, madankollu, ikunu japplikaw biss jekk jintużaw metodi ta' komunikazzjoni li jkunu identiċi ma' dawk li hemm provdut dwarhom f'dawn il-Konvenzjonijiet.

Artikolu 24

Kull ftehim supplimentari bejn il-Partijiet għall-Konvenzjonijiet ta' l-1905 u l-1954 għandu jitqies bhala li jkun japplika indaqs għall-preżenti Konvenzjoni, kemm-il darba l-Partijiet ma jkunux ftehm u xort'ohra.

Artikolu 25

Minghajr preġudizzju għad-disposizzjonijiet ta' l-Artikoli 22 u 24, il-preżenti Konvenzjoni m'għandhiex tidderoga mill-Konvenzjonijiet li jkun fihom disposizzjonijiet fuq l-affarijiet regolati b'din il-Konvenzjoni li għalihom kull Stat Kontraenti jkun, jew isir, Parti.

Artikolu 26

Il-preżenti Konvenzjoni għandha tkun miftuħa għall-firma mill-iStati rappreżentati fl-Għaxar Sessjoni tal-Konferenza ta' l-Aja dwar id-Dritt Internazzjonali Privat.

Din għandha tiġi ratifikata, u l-istrumenti ta' ratifika għandhom jiġu depożitati għand il-Ministeru għall-Affarijiet Barranin ta' l-Olanda.

Artikolu 27

Il-preżenti Konvenzjoni għandha tibda ssehh fis-sittin jum wara li jsir id-depożitu tat-tielet istrument ta' ratifika imsemmi fit-tieni paragrafu ta' l-Artikolu 26.

Il-Konvenzjoni għandha tidhol fis-sehh għal kull Stat firmatarju li sussegwentement jirratifikaha fis-sittin jum wara d-depożitu ta' l-istrumenti ta' ratifika ta' dak l-iStat.

Artikolu 28

Stat li ma jkunx rappreżentat fl-Għaxar Sessjoni tal-Konferenza ta' l-Aja dwar id-Dritt Internazzjonali Privat jista' jaċċedi għall-preżenti Konvenzjoni wara li din tkun dahlet fis-sehh skond l-ewwel paragrafu ta' l-Artikolu 27. L-istrument

ta' aċċessjoni ghandu jiġi depożitat ghand il-Ministeru għall-Affarijiet Barranin ta' l-Olanda.

Il-Konvenzjoni għandha tidhol fis-seħh għal dak l-iStat fin-nuqqas ta' kull oġġezzjoni minn xi Stat, li jkun irratifika l-Konvenzjoni qabel dak id-depożitu, avżat lill-Ministeru għall-Affarijiet Barranin ta' l-Olanda fi żmien sitt xhur wara d-data meta dak l-imsemmi Ministeru jkun avżah b'dik l-aċċessjoni.

Fin-nuqqas ta' kull tali oġġezzjoni, il-Konvenzjoni għandha tidhol fis-seħh għall-iStat li jkun qed jaċċedi fl-ewwel jum tax-xahar li jiġi wara l-iskadenza ta' l-aħħar mill-perjodi msemmija fil-paragrafu preċedenti.

Artikolu 29

Kull Stat jista', fil-waqt ta' l-iffirmar, ratifika jew aċċessjoni, jiddikjara li l-preżenti Konvenzjoni għandha testendi għat-territorji kollha għar-relazzjonijiet internazzjonali li dwarhom jkun responsabbli, jew għal xi wieħed minnhom jew iktar. Dik id-dikjarazzjoni għandha tibda sseħh fid-data ta' dhul fis-seħh tal-Konvenzjoni għall-iStat involut.

F'kull żmien wara dan, dawk l-estensjonijiet għandhom jiġu avżati lill-Ministeru għall-Affarijiet Barranin ta' l-Olanda.

Il-Konvenzjoni għandha tibda sseħh għat-territorji msemmija f'tali estensjoni fis-sittin jum wara li jkun ingħata l-avviż imsemmi fil-paragrafu preċedenti.

Artikolu 30

Il-preżenti Konvenzjoni għandha tibqa' sseħh għal hames snin mid-data meta tidhol fis-seħh skond l-ewwel paragrafu ta' l-Artikolu 27, ukoll għal Stati li jkunu irratifikawha jew aċċedew għaliha sussegwentement.

Jekk ma kien hemm ebda denunzja, din għandha tiġġedded taċitament kull hames snin.

Kull denunzja għandha tiġi avżata lill-Ministeru għall-Affarijiet Barranin ta' l-Olanda mill-inqas sitt xhur qabel tmiem il-perjodu ta' hames snin.

Din tista' tkun limitata għal x'uhud mit-territorji li għalihom tapplika l-Konvenzjoni.

Id-denunzja għandu jkollha seħh biss dwar dak l-iStat li jkun ta avviż dwarha. Il-Konvenzjoni għandha tibqa' sseħh għal kull Stat Kontraenti ichor.

Artikolu 31

Il-Ministeru għall-Affarijiet Barranin ta' l-Olanda għandu jagħti avviż lill-iStati msemmija fl-Artikolu 26, u lill-iStati li jkunu aċċedew skond l-Artikolu 28,

dwar dan li ġej -

- (a) il-firem u r-ratifiki msemmija fl-Artikolu 26;
- (b) id-data meta l-preżenti Konvenzjoni tidhol fis-sehh skond l-ewwel paragrafu ta' l-Artikolu 27;
- (c) l-aċċessjonijiet imsemmija fl-Artikolu 28 u d-dati meta dawn isehhu;
- (d) l-estensjonijiet imsemmija fl-Artikolu 29 u d-dati meta dawn isehhu;
- (e) il-hatriet, opposizzjonijiet u dikjarazzjonijiet imsemmija fl-Artikolu 21;
- (f) id-denunzji msemmija fit-tielet paragrafu ta' l-Artikolu 30.

B'xiehda ta' dan is-sottofirmati, kif debitament awtorizzati li jaghmlu, iffirmaw din il-preżenti Konvenzjoni.

Magħmula fl-Aja, fil-15 ta' Novembru, 1965, fil-lingwa Ingliża u dik Franciża, iż-żewġ testi awtentiċi ndaqs, f'kopja unika li ghandha tiġi depożitata fl-arkivji tal-Gvern ta' l-Olanda, u li tagħha ghandha tintbagħat kopja awtentika, permezz tal-kanali diplomatiċi, lil kull wiehed mill-iStati rappreżentati fl-Għaxar Sessjoni tal-Konferenza ta' l-Aja dwar id-Dritt Internazzjonali Privat.

**FORMOLI
(TALBA U ĊERTIFIKAT)**

SOMMARJU TAD-DOKUMENT LI GHANDU JIĠI NOTIFIKAT

(Annessi li hemm ipprovdut dwarhom fl-Artikoli 3, 5, 6 u 7)

ANNES MAL-KONVENZJONI

Formoli

**TALBA GHAL NOTIFIKA BARRA MINN MALTA TA' DOKUMENTI
ĠUDIZZJARJI JEW ESTRADĠUDIZZJARJI**

**Konvenzjoni dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti Ġudizzjarji u
Estradudizzjarji f'Affarijiet Ċivili jew Kummerċjali, iffirmata f'L-Aja,
fil-15 ta' Novembru, 1965**

Identità u indirizz ta' l-applikant

Indirizz ta' l-awtorità li tirċievi

L-applikant hawn taht iffirmit ghandu l-unur li jittrasmetti - b'żewġ kopji - id-dokumenti hawn iktar 'l isfel elenkati u, b'mod konformi ma' l-Artikolu 5 tal-Konvenzjoni hawn aktar qabel imsemmija, jitlob in-notifika ta' malajr ta' kopja waħda minnhom lill-persuna indirizzata, jiġifieri,

(identità u indirizz)

.....
.....

(a) skond il-provvedimenti tas-subparagrafu (a) ta' l-cwwel paragrafu ta' l-Artikolu 5 tal-Konvenzjoni)*.

(b) skond dan il-metodu partikolari li ġej (subparagrafu (b) ta' l-cwwel paragrafu ta' l-artikolu 5)*:

(ċ) billi titwassal lill-persuna indirizzata, jekk hija taċċettaha volontarjament (it-tieni paragrafu ta' l-Artikolu 5)*.

L-awtorità hija mitluba li tirritorna jew tara li tiġi ritornata lill-applikant kopja tad-dokumenti - u ta' l-annessi* - flimkien ma' ċertifikat kif hemm provdut

A 594

fuq in-naha ta' wara.

Lista ta' dokumenti

.....

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.....

.....

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.....

.....

Maghmula ġewwa..... illum.....

Firma u, jew timbru.

*Hassar jekk mhux mehtieg.

Taqsim B**KONVENZJONI DWAR IL-ĠBIR TA' XIEHDA BARRA MILL-PAJJIŻ
F'AFFARIJET ĊIVILI JEW KUMMERĊJALI****(18 TA' MARZU, 1970)****Preambolu**

L-iStati firmatarji ta' din il-preżenti Konvenzjoni,

Billi jixtiequ jiffaċilitaw it-trasmissjoni u l-eskuzzjoni ta' Ittri Rogatorji u li jestendu l-mod kif isiru u jitwettqu d-diversi metodi li jintużaw għal dan l-għan,

Billi jixtiequ jtejbu l-koperazzjoni ġudizzjarja reċiproka f'affarijiet ċivili jew kummerċjali,

Irrisolvew li jikkonkludu Konvenzjoni f'dan is-sens u qablu dwar dawn id-disposizzjonijiet li ġejjin:

KAPITOLU 1**ITTRI ROGATORJI***Artikolu 1*

F'affarijiet ċivili jew kummerċjali, awtorità ġudizzjarja ta' Stat Kontraenti tista', skond il-provvedimenti tal-liġi ta' dak l-iStat, titlob lill-awtorità kompetenti ta' xi Stat Kontraenti iehor, permezz ta' Ittra Rogatorja, li tikseb xi xiehda, jew li twettaq xi att ġudizzjarju iehor.

Ittra m'għandhiex tintuża biex bis-saħħa tagħha tinkiseb xiehda li ma tkunx maħsuba biex tintuża fi proċedimenti ġudizzjarji, li jkunu diġà nbdew jew li jkunu maħsubin li jinbdew.

Il-frazi "att ġudizzjarju iehor" ma jkoprix in-notifika ta' dokumenti ġudizzjarji jew il-hruġ ta' xi proċess li bih jiġu esegwiti jew infurzati sentenzi jew ordnijiet, jew ordnijiet għal miżuri provviżorji jew protettivi.

Artikolu 2

Stat Kontraenti għandu jinnomina Awtorità Ċentrali li tkun responsabbli biex tirċievi Ittri Rogatorji li jkunu ġejjin minn awtorità ġudizzjarja ta' xi Stat Kontraenti iehor u li din tittrasmettihom lill-awtorità kompetenti sabiex din tesegwihom. Kull Stat għandu jorganizza l-Awtorità Ċentrali skond il-liġijiet tiegħu.

L-Ittri għandhom jintbagħtu lill-Awtorità Ċentrali ta' l-iStat ta' eskuzzjoni

minghajr ma dawn ikunu trasmessi tramite xi awtorità ohra ta' dak l-iStat.

Artikolu 3

Ittra Rogatorja għandha tispeċifika -

(a) l-awtorità li tkun qed titlob l-eskuzzjoni tagħha u l-awtorità li tkun qed tintalab li tesegwiha, jekk din tkun maghrufa mill-awtorità li tkun qed tagħmel it-talba;

(b) l-ismijiet u l-indirizzi tal-partijiet fil-proċedimenti u r-rappreżentanti tagħhom, jekk ikun hemm;

(ċ) ix-xorta tal-proċedimenti li dwarha tkun meħtieġa x-xiehda, filwaqt li tinghata l-informazzjoni kollha meħtieġa dwar dan;

(d) ix-xiehda li għandha tinkiseb jew xi att ġudizzjarju ieħor li jkollu jsir.

Meta jkun hekk adattat, l-Ittra għandha tispeċifika, fost l-ohrajn -

(e) l-ismijiet u l-indirizzi tal-persuni li għandhom jiġu eżaminati;

(f) il-mistoqsijiet li għandhom isiru lil persuni li għandhom jiġu eżaminati jew dikjarazzjoni tal-mertu li dwaru huma għandhom jiġu eżaminati;

(g) id-dokumenti jew proprjetà ohra, reali jew personali, li għandha tiġi spezzjonata;

(h) kull hteġa li x-xiehda għandha tinghata b'ġurament jew b'dikjarazzjoni solenni, u kull forma speċjali li għandha tintuża;

(i) kull metodu speċjali jew proċedura li għandha tiġi segwita taht l-Artikolu 9.

Ittra tista' wkoll issemmi kull informazzjoni meħtieġa għall-applikazzjoni ta' l-Artikolu 11.

Ma jkunu meħtieġa ebda legalizzazzjoni jew formalità ohra simili.

Artikolu 4

Ittra Rogatorja għandha tkun fl-ilsien ta' l-awtorità li tkun ġiet mitluba li tesegwiha jew inkella jkun hemm mehmuża magħha traduzzjoni f'dik il-lingwa.

Madankollu, Stat Kontraenti għandu jaċċetta l-Ittra sew bl-Ingliż sew bil-Franċiż, jew traduzzjoni f'xi waħda minn dawn il-lingwi, kemm-il darba dan ma jkunx għamel ir-riserva awtorizzata taht l-Artikolu 33.

Meta Stat Kontraenti li jkollu iktar minn lingwa uffiċjali waħda u ma jkunx jista', għal raġunijiet ta' liġi domestika, jaċċetta l-tri f'xi waħda minn dawn il-lingwi għat-territorju tiegħu kollu kemm hu, dan għandu, permezz ta' dikjarazzjoni, jispeċifika l-lingwa li biha l-ltra jew it-traduzzjoni tagħha għandhom jiffissru għall-eskuzzjoni fl-oqsma speċifiċi tat-territorju tiegħu. Fin-nuqqas li jikkonforma ruħu ma' din id-dikjarazzjoni, mingħajr ebda skuża gustifikabbli, l-ispejjeż tat-traduzzjoni fil-lingwa meħtieġa jgarrabhom il-pajjiż ta' l-oriġini.

Stat Kontraenti jista', b'dikjarazzjoni, jispeċifika l-lingwa jew il-lingwi li ma jkunux dawk imsemmija fil-paragrafi ta' qabel, li fihom l-ltra tista' tintbagħat lill-Awtorità Ċentrali tagħha.

Kull traduzzjoni li tkun mehmuża ma' xi l-ltra għandha tkun awtentikata bħala li tkun korretta, sew minn uffiċjal diplomatiku sew minn aġent konsulari sew minn traduttur bil-ġurament sew minn kull persuna oħra hekk awtorizzata fi Stat il-wieħed jew l-iċhor.

Artikolu 5

Jekk l-Awtorità Ċentrali tqis li t-talba ma tkunx thares id-disposizzjonijiet tal-preżenti Konvenzjoni, din għandha minnufih tgħarraf lill-awtorità ta' l-iStat ta' l-oriġini li jkun bagħat l-ltra Rogatorja, filwaqt li tispeċifika x'ikunu l-oġġezzjonijiet tagħha għall-ltra.

Artikolu 6

Jekk l-awtorità li lilha tkun ġiet trasmessa l-ltra Rogatorja ma tkunx waħda kompetenti biex tesegwiha, l-ltra għandha tintbagħat minnufih lill-awtorità fl-istess Stat li jkun kompetenti li jsejgwiha skond id-disposizzjonijiet tal-liġijiet tiegħu nnifsu.

Artikolu 7

L-awtorità li tkun qed tagħmel it-talba għandha, jekk tkun hekk tixtieq, tkun informata biż-żmien meta, u l-post fejn, ikunu se jsiru l-proċedimenti, sabiex il-partijiet involuti, u r-rappreżentanti tagħhom, jekk ikollhom, jistgħu jkunu hemm preżenti. Din l-informazzjoni għandha tintbagħat direttament lill-partijiet jew lir-rappreżentanti tagħhom meta l-awtorità ta' l-iStat ta' l-oriġini jkun hekk jitlob.

Artikolu 8

Jista' Stat Kontraenti jiddikjara li membri tal-persunal ġudizzjarju ta' l-awtorità li tkun qed tagħmel it-talba ta' xi Stat Kontraenti iċhor jistgħu jkunu preżenti fl-eskuzzjoni ta' l-ltra Rogatorja. Tista' tenhtieg l-awtorizzazzjoni minn qabel mill-awtorità kompetenti imsemmija mill-iStat li jkun qed jagħmel id-dikjarazzjoni.

Artikolu 9

L-awtorità ġudizzjarja li tessewixxi Ittra Rogatorja għandha tapplika l-liġi tagħha nnifisha dwar il-metodi u l-proċeduri li għandhom jiġu segwiti.

Iżda, din għandha timxi skond talba ta' l-awtorità li tagħmel it-talba li jiġu segwiti xi metodu jew proċedura speċjali, kemm-il darba dawn ma jkunux inkompatibbli mal-liġi domestika ta' l-iStat ta' eżekuzzjoni jew ikun impossibbli li jitwettqu minhabba fil-prattika u proċedura domestika tagħha jew minhabba f'diffikultajiet prattiċi.

Ittra Rogatorja għandha tiġi eżegwita malajr kemm jista' jkun.

Artikolu 10

Fl-eżekuzzjoni ta' Ittra Rogatorja l-awtorità li ssirilha t-talba għandha tapplika l-miżuri ta' għemil adattati f'dawk il-każijiet u sa l-istess limitu bħalma hemm provdut dwarhom fil-liġi domestika tagħha għall-eżekuzzjoni ta' ordnijiet mahruġin mill-awtoritajiet tal-pajjiż tagħha nnifsu jew ta' talbiet magħmulin minn partijiet fi proċedimenti domestiċi.

Artikolu 11

Fl-eżekuzzjoni ta' Ittra Rogatorja il-persuna involuta tista' tirrofta li tagħti x-xiehda tagħha daqstant kemm ikollha privileġġ jew dmir li tirrofta li tagħti xiehda -

(a) taht il-liġi ta' l-iStat fejn tkun qed issir l-eżekuzzjoni; jew

(b) taht il-liġi ta' l-iStat ta' oriġini, u l-privileġġ jew dmir ikun speċifikat fl-Ittra, jew, fuq talba ta' l-awtorità li tkun qed issirilha t-talba, tkun ġiet xort'ohra konfermata lil dik l-awtorità mill-awtorità li tkun qed tagħmel it-talba.

Jista' Stat Kontraenti jiddikjara li, b'żieda, ikun se jirrispetta dawk il-privileġġi u dmirijiet li jkunu jeżistu taht il-liġi ta' Stati li ma jkunux l-iStat ta' l-oriġini u l-iStat ta' l-eżekuzzjoni, sal-limitu speċifikat f'dik id-dikjarazzjoni.

Artikolu 12

L-eżekuzzjoni ta' Ittra Rogatorja tista' tiġi rifjutata biss sal-limitu li -

(a) fl-iStat ta' eżekuzzjoni l-eżekuzzjoni ta' l-Ittra ma jkunx jinkwadra fil-funzjonijiet tal-ġudizzjarju; jew

(b) l-iStat indirizzat ikun iqis li s-sovranità jew is-sigurtà tiegħu se jkunu preġudikati biha.

L-eżekuzzjoni ma tistax tiġi rifjutata biss minhabba f'li taht il-liġi domestika

tieghu l-iStat ta' l-escuzzjoni jkun qed ivanta ġurisdizzjoni eskklusiva fuq il-mertu ta' l-azzjoni jew li l-liġi domestika tieghu ma tkunx taghti lok għal dritt ta' azzjoni dwarha.

Artikolu 13

Id-dokumenti li jkunu jistabbilixxu l-escuzzjoni ta' l-Ittra Rogatorja għandhom jintbagħtu mill-awtorità li tkun saritilha t-talba lill-awtorità li tkun qed tagħmel it-talba permezz ta' l-istess kanal li jkun ġie użat minn din l-aħhar awtorità msemmija.

F'kull każ meta l-Ittra ma tkunx ġiet esegwita għalkollox jew f'parti minnha, l-awtorità li tkun qed tagħmel it-talba għandha tiġi mgharrfa minnufih permezz ta' l-istess kanal u titgharraf bir-raġunijiet għal dan.

Artikolu 14

L-escuzzjoni ta' l-Ittra Rogatorja m'għandhiex taghti lok għal xi hlas lura ta' taxxi jew spejjeż ta' liema xorta tkun.

Madankollu, l-iStat ta' l-escuzzjoni għandu d-dritt li jehtieg lill-iStat ta' l-origini li jhallas lura d-drittijiet imhallsin lill-periti u lill-interpreti u l-ispejjeż li jsiru bl-użu ta' xi proċedura speċjali li tkun intalbet mill-iStat ta' origini taht l-Artikolu 9, paragrafu 2.

L-awtorità li tkun saritilha t-talba li l-liġi tagħha tkun tobbliga lill-partijiet innifishom li jiksbu x-xieħda, u li ma tkunx tista' hi nnifisha tesegwixxi l-ittra, tista', wara li tkun kisbet il-kunsens ta' l-awtorità li tagħmel it-talba, tahtar lil xi persuna adattata biex tagħmel dan. Meta l-awtorità li tkun saritilha t-talba tkun qed tfitteż dan il-kunsens, din għandha tindika x'ikunu l-ispejjeż approssimattivi li kieku jirriżultaw minn din il-proċedura. Jekk l-awtorità li tagħmel it-talba tagħti l-kunsens tagħha din għandha toħroġ u thallas kull spejjeż li jsiru: mingħajr dak il-kunsens l-awtorità li tkun qed tagħmel it-talba ma tkunx responsabbli għall-ispejjeż.

KAPITOLU II

ĠBIR TA' XIEHDA MINN UFFIĊJALI DIPLOMATIĊI, AĠENTI KONSULARI U KUMMISSARJI

Artikolu 15

F'affarijiet ċivili jew kummerċjali, uffiċjal diplomatiku jew aġent konsulari ta' Stat Kontraenti jista', fit-territorju ta' xi Stat Kontraenti ieħor u fiż-żona fejn ikun jeserċita l-funzjonijiet tiegħu, jiġbor ix-xieħda mingħajr ebda għemil taċ-ċittadini ta' xi Stat li huwa jkun jirrappreżenta b'għajjnuna għal proċedimenti mibdijin fil-qrati ta' xi Stat li huwa jkun jirrappreżenta.

Jista' Stat Kontraenti jiddikjara li x-xiehda tista' tittiehed minn ufficjal diplomatiku jew minn agent konsulari biss jekk il-permess f'dak is-sens jinghata meta ssir applikazzjoni minnu jew f'ismu lill-awtorita adattata msemmija mill-iStat dikjaranti.

Artikolu 16

Ufficjal diplomatiku jew agent konsulari ta' Stat Kontraenti jista', fit-territorju ta' Stat Kontraenti iehor u fiz-zona fejn huwa jkun jesercita l-funzjonijiet tieghu, ukoll jigbor ix-xiehda, minghajr ghemil, ta' cittadini ta' l-iStat fejn huwa jkun jesercita l-funzjonijiet tieghu jew dawk ta' Stat terz, biex jghin fi procedimenti mibdijin fil-qrati ta' Stat li huwa jkun jirrapprezenta, jekk -

(a) awtorita kompetenti msemmija minn dak l-iStat fejn huwa jkun jesercita l-funzjonijiet tieghu tkun tat il-permess taghha sew b'mod generali jew fil-każ partikolari, u

(b) ikun jikkonforma mal-kondizzjonijiet li l-awtorita kompetenti tkun speçifikat fil-permess.

Jista' Stat Kontraenti jiddikjara li xiehda tista' tingabar taht dan l-Artikolu minghajr il-permess taghha moghti bil-quddiem.

Artikolu 17

F'affarijiet civili jew kummerçjali, persuna debitament mahtura bhala kummissarju ghal dak il-fini tista', minghajr ghemil, tigbor xiehda fit-territorju ta' Stat Kontraenti biex jghin fi procedimenti mibdijin fil-qrati ta' xi Stat Kontraenti iehor, jekk -

(a) awtorita kompetenti msemmija minn dak l-iStat fejn tkun se tingabar ix-xiehda tkun tat il-permess taghha sew b'mod generali jew fil-każ partikolari, u

(b) ikun jikkonforma mal-kondizzjonijiet li l-awtorita kompetenti tkun speçifikat fil-permess.

Jista' Stat Kontraenti jiddikjara li xiehda tista' tingabar taht dan l-Artikolu minghajr il-permess taghha moghti bil-quddiem.

Artikolu 18

Jista' Stat Kontraenti jiddikjara li ufficjal diplomatiku, agent konsulari jew kummissarju li jkun awtorizzat li jigbor xiehda taht l-Artikoli 15, 16 jew 17, jista' japplika ghand l-awtorita kompetenti msemmija mill-iStat li jkun qed jiddikjara ghal ghajnuna adattata biex jikseb ix-xiehda bil-ghemil. Id-dikjarazzjoni jista' jkun fiha dawk il-kondizzjonijiet li l-iStat li jkun qed jiddikjara jista' jqis bhala xieraq li jimponi.

Jekk l-awtorità tikkonċedi l-applikazzjoni, din għandha tapplika kull miżura ta' għemil li tista' tkun adattata u preskritta bil-liġijiet tagħha għall-użu fi proċedimenti domestiċi.

Artikolu 19

L-awtorità kompetenti, meta tkun qed tagħti l-permess imsemmi fl-Artikoli 15, 16 jew 17, jew meta tkun qed tikkonċedi l-applikazzjoni msemmija fl-Artikolu 18, tista' tistipula dawk il-kondizzjonijiet hekk kif tista' tqis li jkunu xierqa, fost l-oħrajn, dwar iż-żmien u l-post fejn tkun se tingabar ix-xiehda. Bl-istess mod tista' titlob li hija tinghata avviż raġonevoli bil-quddiem dwar il-hin, id-data u l-post tal-ġbir tax-xiehda; f'dak il-każ, rappreżentant ta' l-awtorità jkollu jedd li jkun preżenti fil-ġbir ta' dik ix-xiehda.

Artikolu 20

Fil-ġbir ta' xiehda taht xi Artikolu ta' dan il-Kapitolu, il-persuni involuti jistgħu jkunu rappreżentati legalment.

Artikolu 21

Meta uffiċjal diplomatiku, aġent konsulari jew kummissarju jkun awtorizzat taht l-Artikoli 15, 16 jew 17 li jiġbor ix-xiehda -

(a) huwa jista' jiġbor kull għamla ta' xiehda li ma tkunx inkompatibbli mal-liġi ta' l-iStat fejn tittiehed ix-xiehda jew kuntrarju għal kull permess konċess skond l-Artikoli t'hawn aktar qabel, u jkollu s-setgħa f'dawk il-limiti li jamministra għurament jew li jirċievi dikjarazzjoni solenni;

(b) talba li ssir lil persuna sabiex din tidher jew tagħti x-xiehda tagħha għandha, kemm-il darba min jirċieviha ma jkunx ċittadin ta' l-iStat fejn l-azzjoni tkun pendenti, tiġi abbozzata fil-lingwa tal-post fejn tingabar ix-xiehda jew magħha jkun hemm mehmuża traduzzjoni f'dik il-lingwa;

(ċ) it-talba għandha tgharraf lill-persuna li hija tista' tkun legalment rappreżentata u, f'xi Stat li ma jkunx ippreżenta applikazzjoni taht l-Artikolu 18, għandha wkoll tgharrafha li mhijjex imġiegħla li tidher jew li tagħti xiehda;

(d) ix-xiehda tista' tingabar bil-mod provdut bil-liġi li tkun tapplika għall-qorti fejn l-azzjoni tkun pendenti sakemm dak il-mod ma jkunx projbit bil-liġi ta' l-iStat fejn tittiehed ix-xiehda;

(e) persuna li tkun ġiet mitluba tagħti x-xiehda tagħha tista' tinvoka l-privileġġi u d-dmirijiet li tirrofta x-xiehda li tinsab fl-Artikolu 11.

Artikolu 22

Il-fatt li jkun falla tentattiv li tittiehed xi xiehda taht il-proċedura stipulata f'dan il-Kapitolu, minhabba fir-rifjut ta' xi persuna li taghti x-xiehda taghha, m'għandux jipprevjeni applikazzjoni milli ssir sussegwentement sabiex tingabar ix-xiehda skond il-Kapitolu I.

KAPITOLU III

KLAWŻOLI ĠENERALI

Artikolu 23

Jista' Stat Kontraenti f'kull waqt tal-firma, ratifika jew aċċessjoni, jiddikjara li ma jkunx se jsegwixxi Ittri Rogatorji mahruġin bil-ghan li jiksbu il-kxif qabel is-smigh ta' xi kawża ta' dokumenti kif dan hu magħruf f'pajjiżi fejn tapplika il-*Common Law*.

Artikolu 24

Jista' Stat Kontraenti jinnomina awtoritajiet ohra b'żieda ma' l-Awtorità Ċentrali u jista' jistabbilixxi kemm dawn ikunu kompetenti. Madankollu, jistgħu Ittri Rogatorji f'kull każ jintbagħtu lill-Awtorità Ċentrali.

Ikunu hielsa Stati Federali li jsemmu iktar minn Awtorità Ċentrali wahda.

Artikolu 25

Jista' Stat Kontraenti li jkollu iktar minn sistema legali wahda, isemmi l-awtoritajiet ta' xi wahda minn dawn is-sistemi, li jkollha kompetenza esklusiva li tesegwixxi Ittri Rogatorji b'mod konformi ma' din il-Konvenzjoni.

Artikolu 26

Jista' Stat Kontraenti, jekk ikun hekk mehtieg li jagħmel minhabba f'limitazzjonijiet kostituzzjonali, jitlob ir-rimbors minghand l-iStat ta' l-origini ta' l-ispejjeż u n-nefqiet, li jkollhom x'jaqsmu ma' l-esekuzzjoni ta' Ittri Rogatorji, għan-notifika ta' proċess mehtieg biex iġieghel lil xi persuna tidher u taghti x-xiehda taghha, l-ispejjeż ta' l-attendenza ta' dawk il-persuni, u n-nefqa ta' kull traskrizzjoni tax-xiehda.

Meta Stat ikun għamel talba li tkun konformi mat-talba t'hawn aktar qabel, kull Stat Kontraenti ichor jista' jitlob minn dak l-iStat ir-rimbors ta' drittijiet u spejjeż bħal dawk.

Artikolu 27

Id-disposizzjonijiet tal-konvenzjoni preżenti m'għandhomx jipprevjenu lil xi

Stat Kontraenti milli -

- (a) jiddikjara li Ittri Rogatorji jistgħu jiġu trasmessi lill-awtoritajiet ġudizzjarji tiegħu permezz ta' kanali li ma jkunux dawk li hemm ipprovdut dwarhom fl-Artikolu 2;
- (b) jippermetti, bil-liġi jew bil-prattika domestika, li xi att li hemm ipprovdut dwaru f'din il-Konvenzjoni jitwettaq b'kondizzjonijiet inqas restrittivi;
- (c) jippermetti, bil-liġi jew il-prattika domestika, metodi ta' ġbir ta' xiehda li ma jkunux dawk li hemm provdut dwarhom f'din il-Konvenzjoni.

Artikolu 28

Il-preżenti Konvenzjoni m'għandhiex tipprevjeni ftehim bejn xi żewġ Stati Kontraenti jew iktar li jidderogaw mill-provvedimenti -

- (a) ta' l-Artikolu 2 dwar il-metodi kif jittrasmettu l-Ittri Rogatorji;
- (b) ta' l-Artikolu 4 dwar il-lingwi li jistgħu jintużaw;
- (c) ta' l-Artikolu 8 dwar il-preżenza ta' persunal ġudizzjarju fl-esekuzzjoni ta' Ittri;
- (d) ta' l-Artikolu 11 dwar il-privileġġi u d-dmirijiet ta' xiehda li jirrifjutaw li jagħtu x-xiehda tagħhom;
- (e) ta' l-Artikolu 13 dwar il-metodi li jreġġgħu lura Ittri esegwiti lill-awtorità li tkun għamlet it-talba;
- (f) ta' l-Artikolu 14 dwar id-drittijiet u l-ispejjeż;
- (g) tal-Kapitolu II.

Artikolu 29

Bejn il-Partijiet għall-din il-Konvenzjoni, li huma wkoll Partijiet għal xi wahda mill-Konvenzjonijiet jew iż-żewġ Konvenzjonijiet fuq il-Proċedura Ċivili ffirmati fl-Aja fis-17 ta' Lulju 1905 u l-1 ta' Marzu 1954, din il-Konvenzjoni għandha tidhol minflok l-Artikoli 8 -16 tal-Konvenzjonijiet ta' qabel.

Artikolu 30

Il-preżenti Konvenzjoni m'għandhiex tolqot l-applikazzjoni ta' l-Artikolu 23 tal-Konvenzjoni ta' l-1905, jew ta' l-Artikolu 24 tal-Konvenzjoni ta' l-1954.

Artikolu 31

Kull Ftehim Supplementari bejn il-Partijiet għall-Konvenzjonijiet ta' l-1905 u l-1954 għandu jitqies bħala li hu applikabbli bl-istess mod indaqs għall-preżenti Konvenzjoni kemm-il darba l-Partijiet ma jkunux ftehm u xort'ohra.

Artikolu 32

Minghajr preġudizzju għad-disposizzjonijiet ta' l-Artikoli 29 u 31, il-preżenti Konvenzjoni m'għandhiex tidderoga minn konvenzjonijiet li jkun fihom disposizzjonijiet fuq l-affarijiet koperti b'din il-Konvenzjoni li fihom Stat Kontraenti jkun, jew ikun ser isir Parti.

Artikolu 33

Jista' Stat, fil-waqt tal-firma, ratifika jew aċċessjoni, jeskludi, għalkollox jew biss f'parti, l-applikazzjoni tad-disposizzjonijiet tal-paragrafu 2 ta' l-Artikolu 4 u tal-Kapitolu II. M'għandha tithalla li ssir ebda riserva oħra.

Jista' kull Stat Kontraenti f'kull waqt li jkun jirtira xi riserva li jkun għamel; ir-riserva ttemm milli jibqa' jkollha seħh fis-sittin jum wara n-notifika ta' l-irtirar.

Meta jkun Stat għamel riserva, kull Stat iehor li jkun milqut minnha jista' japplika l-istess regola kontra l-iStat li jkun qed jagħmel ir-riserva.

Artikolu 34

Jista' Stat f'kull waqt jirtira jew jimmodifika dikjarazzjoni.

Artikolu 35

Għandu Stat Kontraenti, fil-waqt tad-depożitu ta' l-istrument ta' ratifika jew aċċessjoni, jew f'data li tiġi wara, jgħarraf lill-Ministeru għall-Affarijiet Barranin ta' l-Olanda bit-tismija ta' l-awtoritajiet, skond ma hemm fl-Artikoli 2, 8, 24 u 25.

Għandu bl-istess mod Stat Kontraenti jgħarraf lill-Ministeru, meta jkollu hekk isir, b'dan li ġej -

(a) it-tismija ta' l-awtoritajiet li lilhom għandu jingħata avviż, li jista' jkun meħtieġ il-permess tagħhom, u li tista' tiġi invokata l-għajnuna tagħhom fit-teħid ta' xieħda minn uffiċjali diplomatiċi u aġenti konsulari, skond l-Artikoli 15, 16 u 18 rispettivament;

(b) it-tismija ta' l-awtoritajiet li l-permess tagħhom jista' jkun meħtieġ fit-teħid ta' xieħda minn kummissarji skond l-Artikolu 17 u ta' dawk li jistgħu jikkonċedu l-għajnuna li hemm provdut dwarha fl-Artikolu 18;

(ċ) dikjarazzjonijiet skond l-Artikoli 4, 8, 11, 15, 16, 17, 18, 23 u 27;

(d) kull irtirar jew modifika tat-tismijiet u dikjarazzjonijiet t'hawn aktar qabel;

(e) l-irtirar ta' kull riserva.

Artikolu 36

Kull diffikultà li tista' titnissel bejn Stat Kontraenti u iehor jew ohrajn f'dak li ghandu x'jaqsam mat-thaddim ta' din il-Konvenzjoni ghandu jiġi rranġat permezz tal-kanali diplomatiċi.

Artikolu 37

Il-preżenti Konvenzjoni ghandha tinftaħ għall-firma ta' l-iStati rappreżentati fil-Hdax-il Sessjoni tal-Konferenza ta' l-Aja fuq id-Dritt Internazzjonali Privat.

Ghandha tiġi ratifikata u l-istrumenti ta' ratifika ghandhom jiġu depożitati għand il-Ministeru għall-Affarjiet Barranin ta' l-Olanda.

Artikolu 38

Il-preżenti Konvenzjoni ghandha tibda ssehh fis-sittin jum wara d-depożitu tat-tielet instrument ta' ratifika msemmi fit-tieni paragrafu ta' l-Artikolu 37.

Il-Konvenzjoni ghandha tibda ssehh għal kull Stat firmatarju li jirratifika wara fis-sittin jum wara d-depożitu ta' l-istrument ta' ratifika tiegħu.

Artikolu 39

Stat li ma jkunx rappreżentat fil-Hdax-il Sessjoni tal-konferenza ta' l-Aja fuq id-Dritt Internazzjonali Privat li jkun Membru ta' din il-Konferenza jew tan-Nazzjonijiet Uniti jew ta' xi aġenzija speċjalizzata ta' dik l-Organizzazzjoni, jew Parti fl-iStatut tal-Qorti Internazzjonali tal-Ġustizzja, jista' jaċċedi għall-preżenti Konvenzjoni wara li din tkun dahlet fis-schh skond ma hemm fl-ewwel paragrafu ta' l-Artikolu 38.

L-istrument ta' aċċessjoni ghandu jkun depożitat għand il-Ministeru għall-Affarjiet barranin ta' l-Olanda.

Il-Konvenzjoni ghandha tibda ssehh għal Stat li jkun qed jaċċedi għaliha fis-sittin jum wara d-depożitu ta' l-istrument ta' aċċessjoni tiegħu.

L-aċċessjoni jkollha sehħ biss dwar ir-relazzjonijiet bejn l-iStat li jkun qed jaċċedi u dawk l-iStati Kontraenti li jkunu ddikjaraw li jaċċettaw l-aċċessjoni. Dik id-dikjarazzjoni ghandha tiġi depożitata għand il-Ministeru għall-Affarjiet Barranin ta' l-Olanda; dan il-Ministeru ghandu jibghat, permezz ta' kanali diplomatiċi, kopja awtentikata lil kull wiehed mill-iStati Kontraenti.

Il-Konvenzjoni tidhol fis-sehh bejn l-iStat li jkun qed jaċċedi u l-iStat li jkun iddikjara li jkun aċċetta l-aċċessjoni fis-sittin jum wara d-depożitu tad-dikjarazzjoni ta' aċċettazzjoni.

Artikolu 40

Stat jista', fil-waqt tal-firma, ratifika jew aċċessjoni, jiddikjara li l-preżenti Konvenzjoni ghandha testendi ghat-territorji kollha li huwa jkun responsabbli ghar-relazzjonijiet internazzjonali taghhom, jew ghal xi wicched jew iktar minnhom. Dik id-dikjarazzjoni ghandha tibda ssehh fid-data tad-dhul fis-sehh tal-Konvenzjoni ghall-iStat involut.

F'kull waqt wara dan, dawk l-estensjonijiet ghandhom jigu avzati lill-Ministeru ghall-Affarijiet Barranin ta' l-Olanda.

Il-Konvenzjoni ghandha tibda ssehh ghat-territorji msemmija f'dik l-estensjoni fis-sittin jum wara li jinghata l-avviż indikat fil-paragrafu preċedenti.

Artikolu 41

Il-preżenti Konvenzjoni ghandha tibqa' fis-sehh ghal hames snin mid-data meta tidhol fis-sehh skond l-ewwel paragrafu ta' l-Artikolu 38, ukoll ghal Stati li jkunu irratifikawha jew aċċedew ghalha wara.

Jekk ma jkun hemm ebda denunzja, din ghandha tiġġedded b'mod taċitu kull hames snin.

Denunzja ghandha tiġi avzata lill-Ministeru ghall-Affarijiet Barranin ta' l-Olanda mill-inqas sitt xhur qabel tmiem il-perjodu ta' hames snin.

Tista' tkun limitata biss ghal x'uhud mit-territorji li ghalihom tkun tapplika l-Konvenzjoni.

Id-denunzja tibda ssehh biss dwar l-iStat li jkun ta avviż dwarha. Il-Konvenzjoni ghandha tibqa' ssehh ghal kull Stat Kontraenti ichor.

Artikolu 42

Il-Ministeru ghall-Affarijiet Barranin ta' l-Olanda ghandu jaghti avviż lill-iStati msemmija fl-Artikolu 37, u lill-iStati li jkunu aċċedew skond l-Artikolu 39, b'dan li ġej -

- (a) il-firem u r-ratifika msemmija fl-Artikolu 37;
- (b) id-data meta l-preżenti Konvenzjoni tibda ssehh skond l-ewwel paragrafu ta' l-Artikolu 38;
- (ċ) kull aċċessjoni msemmija fl-Artikolu 39 u d-dati meta dawn

ischhu;

(d) l-estensjonijiet imsemmija fl-Artikolu 40 u d-dati meta dawn jibdw ischhu;

(c) it-tismijiet, riservi u dikjarazzjonijiet imsemmija fl-Artikoli 33 u 35;

(f) id-denunzji msemmija fit-tielet paragrafu ta' l-Artikolu 41.

B'xiehda ta' dan is-sottofirmatarji, hekk kif debitament awtorizzati jagħmlu dan, iffiraw din il-preżenti Konvenzjoni.

Magħmula L-Aja, fit-18 ta' Marzu, 1970, fil-lingwa Inġliża u dik Franċiża, iż-żewġ testi awtentiċi ndaqs, f'kopja unika li għandha tiġi depożitata fl-arkivji tal-Gvern ta' l-Olanda, u li tagħha għandha tintbagħat kopja awtentikata, permezz tal-kanal diplomatiku, lil kull wieħed mill-iStati rappreżentati fil-Hdax-il Sessjoni tal-Konferenza ta' L-Aja fuq id-Dritt Internazzjonali Privat.

Taqsimat Ċ

**IL-KONVENZJONI TA' L-AJA DWAR L-AĊĊESS INTERNAZZJONALI
GHALL-ĠUSTIZZJA**

(25 TA' OTTUBRU, 1980)

L-iStati firmatarji f'din il-Konvenzjoni,

Billi jixtiequ jiffaċilitaw l-aċċess internazzjonali għall-ġustizzja,

Irrisolvew li jagħmlu Konvenzjoni għal dan l-għan u qablu fuq dawn id-disposizzjonijiet li ġejjin -

KAPITOLU I

GHAJNUNA LEGALI

Artikolu 1

Iċ-ċittadini ta' xi Stat Kontraenti u persuni li soltu jkunu residenti f'xi Stat Kontraenti jkollhom jedd għall-ghajnuna legali għal proċedimenti fil-qorti f'affarijiet ċivili u kummerċjali f'kull Stat Kontraenti bl-istess kondizzjonijiet bħallikieku huma nfushom kienu ċittadini ta' dak l-iStat u soltu residenti fih.

Dawk il-persuni li ma japplikax għalihom il-paragrafu 1, iżda li qabel kellhom ir-residenza tas-soltu tagħhom fi Stat Kontraenti li fih ikunu se jinbdew jew diġà nbdew proċedimenti tal-qorti, għandhom madankollu jkollhom jedd għall-ghajnuna legali kif provdut fil-paragrafu 1 jekk ir-raġuni għall-azzjoni tkun tniisset mir-residenza tagħhom tas-soltu li kellhom qabel f'dak l-iStat.

Fi Stati fejn l-ghajnuna legali tkun provduta f'affarijiet amministrattivi, soċjali jew fiskali, id-disposizzjonijiet ta' dan l-Artikolu għandhom ikunu japplikaw għall-każijiet li jinġiebu quddiem il-qorti jew tribunali kompetenti f'dawk l-affarijiet.

Artikolu 2

L-Artikolu 1 għandu japplika għal parir legali sakemm il-persuna li tkun qed tfitteż dak il-parir tkun preżenti fl-iStat fejn ikun qed jitfitteż li jinkiseb dak il-parir.

Artikolu 3

Kull Stat Kontraenti għandu jsemmi Awtorità Ċentrali li tirċievi, u tiegħu azzjoni dwar, applikazzjonijiet għall-ghajnuna legali li jiġu ppreżentati taht din il-Konvenzjoni.

Stati Federali u Stati li jkollhom iktar minn sistema legali wahda jistghu jsemmu iktar minn Awtorità Ċentrali wahda. Jekk l-Awtorità Ċentrali li lilha tiġi pprezentata applikazzjoni ma tkunx kompetenti li tittrattaha, din ghandha tibghat l-applikazzjoni lil dik l-Awtorità Ċentrali oħra li tkun fl-istess Stat Kontraenti u li tkun kompetenti li tittrataha.

Artikolu 4

Kull Stat Kontraenti ghandu jsemmi xi awtorità trasmittenti wahda jew iktar għall-fini tat-twassil ta' applikazzjonijiet għall-ghajnuna legali lill-Awtorità Ċentrali adattata fl-iStat fejn tkun qeghda ssirlu t-talba.

Applikazzjonijiet għall-ghajnuna legali għandhom jiġu trasmessi, mingħajr l-intervent ta' ebda awtorità oħra, fl-għamla tal-mudell anness ma' din il-Konvenzjoni.

Ebda haġa f'dan l-Artikolu m'għandha tipprevjoni applikazzjoni milli tiġi pprezentata permezz tal-kanali diplomatiċi.

Artikolu 5

Meta l-applikant għall-ghajnuna legali ma jkunx preżenti fl-iStat fejn tkun qeghda ssirlu t-talba, huwa jista' jippreżenta t-talba tiegħu lil xi awtorità trasmittenti fl-iStat Kontraenti fejn ikollu r-residenza tas-soltu tiegħu, mingħajr preġudizzji għal kull mezz ichor li jista' jkollu kif jippreżenta l-applikazzjoni tiegħu lill-awtorità kompetenti fl-iStat li jkun qed jagħmel it-talba.

L-applikazzjoni għandha tkun fl-għamla tal-mudell anness ma' din il-Konvenzjoni u għandu jkun hemm mehmuż magħha kull dokument meħtieġ, mingħajr preġudizzju għad-dritt ta' l-iStat fejn tkun qeghda ssirlu t-talba li jitlob għal iktar informazzjoni jew dokumenti f'każijiet li jkunu hekk xierqa.

Jista' Stat Kontraenti jiddikjara li l-Awtorità Ċentrali tiegħu li tkun qed tirċievi, tkun se taċċetta applikazzjonijiet ipprezentati minn kanali jew b'metodi oħra.

Artikolu 6

L-awtorità trasmittenti għandha tghin lill-applikant f'illi jiżgura li l-applikazzjoni jkollha mehmuż magħha kull informazzjoni u dokument minnha magħruf bhala li jkun meħtieġ sabiex tkun tista' titqies l-applikazzjoni. Għandha tiżgura li l-htigiet formali jiġu mharsa.

Jekk l-awtorità trasmittenti jkun jidhrilha li l-applikazzjoni tkun manifestament infondata, din tista' tirrofta li tittrasmetti l-applikazzjoni.

Għandha tghin lill-applikant f'illi jikseb mingħajr ebda hlas traduzzjoni tad-dokumenti meta dik l-ghajnuna tkun wahda adatta.

Għandha twieġeb għal kull informazzjoni ulterjuri mill-Awtorità Ċentrali li tkun qed tirċievi fl-iStat fejn tkun qegħda ssirlu t-talba.

Artikolu 7

L-applikazzjoni, id-dokumenti b'appoġġ u kull komunikazzjoni b'risposta għal talbiet għal iktar informazzjoni għandhom ikunu fil-lingwa uffiċjali jew f'xi waħda mil-lingwi uffiċjali ta' l-iStat fejn tkun qegħda ssirlu t-talba jew ikollha meħmuż magħha traduzzjoni f'xi waħda minn dawk il-lingwi.

Madankollu, meta fl-iStat li jkun qed jagħmel it-talba ma jkunx prattikabbli li tinkiseb traduzzjoni fil-lingwa ta' l-iStat fejn tkun qegħda ssirlu t-talba, dan l-aħhar Stat għandu jaċċetta d-dokumenti jew bl-Ingliż jew bil-Franċiż, jew inkella d-dokumenti għandu jkollhom meħmuż magħhom traduzzjoni f'xi waħda minn dawk il-lingwi.

Komunikazzjonijiet li jkunu ġejjin mill-Awtorità Ċentrali li tkun qed tirċievi jistgħu jiġu abbozzati fil-lingwa uffiċjali jew f'xi waħda mill-lingwi uffiċjali ta' l-iStat fejn tkun qegħda ssirlu t-talba jew bl-Ingliż jew bil-Franċiż. Madankolu, meta l-applikazzjoni mibgħuta mill-awtorità trasmittenti tkun jew bl-Ingliż jew bil-Franċiż, jew ikun hemm meħmuż magħha traduzzjoni f'xi waħda minn dawk il-lingwi, komunikazzjonijiet li jkunu ġejjin mill-Awtorità Ċentrali li tkun qed tirċievi għandhom ukoll ikunu f'xi waħda minn dawk il-lingwi.

L-ispiża tat-traduzzjoni li titnissel mill-applikazzjoni tal-paragrafi preċedenti għandha tiġġarrab mill-iStat li jkun qed jagħmel it-talba, b'dan illi traduzzjonijiet magħmulin fl-iStat fejn tkun qegħda ssirlu t-talba m'għandhom jagħtu lok għal ebda talba ta' rimbors minn dak l-iStat.

Artikolu 8

L-Awtorità Ċentrali li tkun qed tirċievi għandha taqta' l-applikazzjoni jew inkella għandha tiegħu dawk il-passi li jistgħu jkunu meħtieġa sabiex tikseb dak li tkun iddeċidiet minn awtorità kompetenti fl-iStat fejn tkun qegħda ssir it-talba.

L-Awtorità Ċentrali li tkun qed tirċievi għandha tittrasmetti talbiet għal iktar informazzjoni lill-awtorità trasmittenti u għandha tgharrafha b'kull diffikultà li jkollha x'taqsam ma' l-eżami ta' l-applikazzjoni u tad-deċiżjoni meħuda.

Artikolu 9

Meta l-applikant għall-ghajjnuna legali ma jkunx joqgħod fi Stat Kontraenti, huwa jista' jippreżenta l-applikazzjoni tiegħu permezz ta' kanali konsulari, mingħajr preġudizzju għal kull mezz ieħor disponibbli għalih li jippreżenta l-applikazzjoni tiegħu lill-awtorità kompetenti fl-iStat fejn tkun qegħda ssirlu t-talba.

Jista' Stat Kontraenti jiddikjara li l-Awtorità Ċentrali tiegħu li tkun qed

tirċievi, tkun se jaċċetta applikazzjonijiet ippreżentati permess ta' kanali jew metodi oħra.

Artikolu 10

Kull dokument mibgħut taht dan il-Kapitolu għandu jkun eżenti mil-legalizzazzjoni jew minn xi formalità oħra bħal dik.

Artikolu 11

M'għandhom isiru ebda spejjeż għat-trasmissjoni, twassil jew deċiżjoni dwar applikazzjonijiet għall-ghajjnuna legali taht dan il-Kapitolu.

Artikolu 12

L-applikazzjonijiet għall-ghajjnuna legali għandhom jiġu ttrattati b'mod mill-iktar speditiv.

Artikolu 13

Meta tkun ġiet konċessa l-ghajjnuna legali skond ma hemm fl-Artikolu 1, in-notifika ta' dokumenti f'xi Stat Kontraenti iħor skond il-proċedimenti tal-persuna li tkun qed tingħata l-ghajjnuna legali, m'għandha tagħti lok għal ebda spejjeż minkejja kif fil-fatt issir in-notifika. L-istess haġa tapplika għal Ittri Rogatorji u rapporti ta' inkjesta soċjali, hliet għal drittijiet li jithallsu lil periti u interpreti.

Meta persuna tkun irċeviet ghajjnuna legali skond ma hemm fl-Artikolu 1 għal proċedimenti fi Stat Kontraenti u tkun ingħatat deċiżjoni f'dawk il-proċedimenti, hija tkun, mingħajr ebda investigazzjoni oħra dwar iċ-ċirkostanzi tagħha, intitolata għall-ghajjnuna legali f'kull Stat Kontraenti iħor li fih tfittex li tassigura r-rikonoxximent jew l-infurzar ta' dik id-deċiżjoni.

KAPITOLU II

GARANZIJA GħALL-ISPEJJEŻ U INFURZAR TA' ORDNIJET GħALL-ISPEJJEŻ

Artikolu 14

Ebda garanzija, *bond* jew depożitu ta' liema xorta tkun ma tista' tenħtieġ, minħabba biss taċ-ċittadinanza barranija tagħhom jew għaliex ma jkunux domiciljati jew residenti fl-iStat fejn jinbdeu il-proċedimenti, mingħand persuni (inklużi persuni legali) li soltu jkunu residenti fi Stat Kontraenti u li jkunu atturi jew partijiet li jintervjenu fi proċedimenti quddiem il-qrati jew tribunali ta' xi Stat Kontraenti iħor.

L-istess regola għandha tkun tapplika għal xi hlas li jkun dovut mingħand l-atturi jew il-partijiet li jintervjenu bħala garanzija għall-ispejjeż tal-qorti.

Artikolu 15

Ordni għall-hlas ta' l-ispejjeż u n-nefġiet ta' proċedimenti, li jsiru f'xi Stat Kontraenti kontra xi persuna eżenti mill-htigiet dwar il-garanzija, *bond*, depożitu jew hlas bis-sahha ta' l-Artikolu 14 jew tal-liġi ta' l-iStat fejn il-proċedimenti jkunu inbdew, għandu, meta ssir l-applikazzjoni tal-persuna li jkollha jedd għall-benefiċċju ta' l-ordni, jkun jista' jiġi infurzat minghajr ebda hlas f'xi Stat Kontraenti ichor.

Artikolu 16

Kull Stat Kontraenti għandu jsemmi xi waħda jew iktar mill-awtoritajiet trasmittenti għall-fini li jintbagħtu lill-Awtorità Ċentrali adatta fl-iStat fejn tkun qegħda ssir it-talba applikazzjonijiet sabiex daww l-ordnijiet li għalihom japplika l-Artikolu 15 ikunu jistgħu jiġu infurzati.

Kull Stat Kontraenti għandu jinnomina Awtorità Ċentrali sabiex din tirċievi daww l-applikazzjonijiet u tiegħu l-passi meħtieġa biex tiżgura li tintlaħaq deċiżjoni finali dwarhom.

Stati Federali u Stati li jkollhom iktar minn sistema legali waħda jistgħu jinnominaw iktar minn Awtorità Ċentrali waħda. Jekk l-Awtorità Ċentrali li lilha tiġi ppreżentata applikazzjoni ma tkunx kompetenti li tittratta dwarha, din għandha tibgħat l-applikazzjoni lil dik l-Awtorità Ċentrali oħra fl-iStat fejn tkun qegħda ssir it-talba, li tkun kompetenti tittrattaha.

Applikazzjonijiet taht dan l-Artikolu għandhom jiġu trasmessi minghajr l-intervent ta' xi awtorità oħra, minghajr preġudizzju għal applikazzjoni li tiġi trasmessa permezz ta' kanali diplomatiċi.

Ebda haġa f'dan l-Artikolu m'għandha tipprevjoni applikazzjonijiet milli jsiru direttament mill-persuna intitolata għall-benefiċċju ta' l-ordni kemm-il darba l-iStat fejn tkun qegħda ssir it-talba jkun iddikjara li ma jkunx se jaċċetta applikazzjonijiet magħmula b'dan il-mod.

Artikolu 17

Kull applikazzjoni taht l-Artikolu 15 għandha tkun imsichba minn -

(a) vera kopja tal-parti relevanti tad-deċiżjoni li tkun turi l-ismijiet u l-kapaċitajiet legali tal-partijiet u ta' l-ordni għall-hlas ta' l-ispejjeż jew in-nefġiet;

(b) kull dokument meħtieġ sabiex tingieb prova li d-deċiżjoni ma tkunx għadha iktar suġġetta għall-forom ordinarji ta' reviżjoni fl-iStat ta' oriġini u li jkun jista' jiġi infurzat hemmhekk;

(ċ) traduzzjoni, awtentikata bħala waħda vera, tad-dokumenti hawn

aktar qabel imsemmija fil-lingwa ta' l-iStat fejn tkun qeghda ssir it-talba, jekk dawn ma jkunux digà f'dik il-lingwa.

L-applikazzjoni ghandha tiġi deċiża minghajr ma ssir ebda seduta dwarha u l-awtorità kompetenti fl-iStat fejn tkun qeghda ssir it-talba ghandha tasal biss li teżamina jekk id-dokumenti meħtieġa jkunux ġew prodotti jew le. Jekk tiġi hekk mitluba tagħmel mill-applikant, dik l-awtorità ghandha tistabbilixxi l-ammont ta' l-ispejjeż tal-konferma bil-ġurament jew dikjarazzjoni solenni, t-traduzzjoni u l-awtentikazzjoni, liema spejjeż jitqiesu bhala spejjeż u nefqiet tal-proċedimenti. Ma jkunu meħtieġa ebda legalizzazzjoni jew xi formalità bhalha.

M'ghandu jkun hemm ebda dritt ta' appell kontra d-deċiżjoni ta' l-awtorità kompetenti hlief skond il-liġi ta' l-iStat fejn tkun qeghda ssir it-talba.

KAPITOLU III

KOPJI TA' REĠISTRAZZJONIJIET U DEĊIŻJONIJIET

Artikolu 18

Iċ-ċittadini ta' xi Stat Kontraenti u persuni soltu residenti f'xi Stat Kontraenti jistgħu jiksbu f'xi Stat Kontraenti iehor, bl-istess pattijiet u kondizzjonijiet bhal ċittadini tiegħu, kopji ta', jew estratti minn reġistrazzjonijiet f'reġistri pubbliċi u deċiżjonijiet li jkunu jirrigwardaw affarijiet ċivili jew kummerċjali u jistgħu ikollhom dawk id-dokumenti legalizzati, fejn ikun meħtieġ.

KAPITOLU IV

DETENZJONI FIŻIKA U *SAFE CONDUCT*

Artikolu 19

L-arrest u d-detenzjoni, sew bhala mezz ta' infurzar jew biss bhala miżura kawtelatorja, m'ghandhomx, f'affarijiet ċivili jew kummerċjali, jiġu wżati kontra ċittadini ta' xi Stat Kontraenti jew persuni li soltu jkunu residenti fi Stat Kontraenti f'ċirkostanzi fejn ma jkunux jistgħu jiġu wżati kontra ċittadini ta' l-iStat li jkun qed jarresta jew jiddetjeni. Kull fatt li jista' jingħad minn ċittadin li soltu jkun resident f'dak l-iStat biex jikseb ir-rilaxx mill-arrest jew mid-detenzjoni jista' jingħad bl-istess effett minn ċittadin ta' Stat Kontraenti jew minn persuna li soltu tkun residenti fi Stat Kontraenti ukoll jekk il-fatt jkun ġara barra mill-pajjiż.

Artikolu 20

Persuna li tkun ċittadin ta', jew li tkun soltu toqghod fi Stat Kontraenti u li tkun imsejha b'isimha minn xi qorti jew tribunal fi Stat Kontraenti iehor, jew minn xi parti bil-permess tal-qorti jew tat-tribunal, sabiex jidher bhala xhud jew perit fi proċedimenti f'dak l-iStat ma tkun tista' ssir ebda prosekuzzjoni jew detenzjoni fir-rigward tagħha, jew tiġi assoġġettata għal xi restrizzjoni ohra dwar il-libertà

personali tagħha, fit-territorju ta' dak l-iStat dwar xi att jew sejbien ta' htija li jkunu graw qabel ma hija tkun waslet f'dak l-iStat.

L-immunità li hemm provdut dwarha fil-paragrafu preċedenti għandha tibda sebat ijiem qabel id-data stabbilita għas-smigh tax-xhud jew perit u għandha ttemm meta x-xhud jew perit għalkemm kellu opportunità, għal perjodu ta' sebat ijiem konsekuttivi mid-data meta jkun għe mgharraf mill-awtoritajiet għudizzjarji li l-preżenza tiegħu ma tkunx aktar meħtieġa, li jitlaq ikun madankollu baqa' fit-territorju, jew għalkemm ikun telaq minnu, jkun reġa' lura hemmhekk volontarjament.

KAPITOLU V

DISPOSIZZJONIJIET ĠENERALI

Artikolu 21

Minghajr preġudizzju għad-disposizzjonijiet ta' l-Artikolu 22, ebda haġa f'din il-konvenzjoni m'għandha tiftichem bhala li tillimita xi drittijiet dwar affarijiet regolati b'din il-Konvenzjoni li jistgħu jinghataw lil xi persuna taht il-liġi ta' xi Stat Kontraenti jew taht xi konvenzjoni oħra li tagħha tkun, jew tista' ssir parti.

Artikolu 22

Bejn il-Partijiet f'din il-Konvenzjoni li jkunu wkoll Partijiet għal xi Konvenzjoni waħda jew aktar fuq il-proċedura ċivili ffirmata għewwa L-Aja fis-17 ta' Lulju 1905 u l-1 ta' Marzu 1954, din il-Konvenzjoni għandha tissostitwixxi l-Artikoli 17 sa 24 tal-Konvenzjoni ta' l-1905 jew l-Artikoli 17 sa 26 tal-Konvenzjoni ta' l-1954 ukoll jekk tkun intgħamlet ir-riserva li hemm provdut dwarha taht il-paragrafu 2 (ċ) ta' l-Artikolu 28 ta' din il-Konvenzjoni.

Artikolu 23

Kull ftehim supplimentari bejn il-Partijiet fil-Konvenzjonijiet ta' l-1905 u l-1954 għandu jitqies bhala li japplika ndaqs għall-preżenti Konvenzjoni, sal-limitu li dawn ikunu kompatibbli magħha, kemm-il darba l-partijiet ma jiftchem xort'oħra.

Artikolu 24

Jista' Stat Kontraenti jispeċifika b'dikjarazzjoni il-lingwa jew lingwi li ma jkunux dawk imsemmija fl-Artikoli 7 u 17 li bihom dokumenti li jintbagħtu lill-Awtorità Ċentrali tagħha jistgħu jiġu abbozzati jew tradotti.

Artikolu 25

Meta Stat Kontraenti jkollu iktar minn lingwa ufficjali waħda u ma jkunx

jista', minhabba f'raġunijiet ta' liġi domestika, jaċċetta għat-territorju kollu tiegħu dokumenti msemmija fl-Artikoli 7 u 17 abbozzati f'xi waħda minn dawk il-lingwi, dan għandu permezz ta' dikjarazzjoni jispeċifika l-lingwa li biha dawk id-dokumenti jew traduzzjonijiet tagħhom għandhom jiġu abbozzati sabiex jiġu mogħtija fil-partijiet speċifikati tat-territorju tiegħu.

Artikolu 26

Jekk Stat Kontraenti ikollu xi żewġ oqsma territorjali jew iktar li fihom ikunu japplikaw sistemi ta' liġi differenti dwar affarijiet li jissemmew f'din il-Konvenzjoni, dan jista' filwaqt tal-firma, ratifika, aċċettazzjoni, approvazzjoni jew aċċessjoni, jiddikjara li din il-Konvenzjoni għandha tkun testendi għall-oqsma territorjali kollha tagħha jew għal xi qasam wieħed jew iktar minnhom biss u jista' jimmodifika dik id-dikjarazzjoni billi jippreżenta dikjarazzjoni oħra f'kull żmien li jkun.

Dikjarazzjoni bħal dik għandha tiġi avżata lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda u għandu jkun fiha b'mod ċar liema jkunu dawk l-oqsma territorjali li l-Konvenzjoni tkun tapplika għalihom.

Artikolu 27

Meta Stat Kontraenti jkollu sistema ta' gvern li taħtha s-setgħat eżekuttivi, ġudizzjarji u leġislattivi jkunu mifruxa bejn awtoritajiet ċentrali u dawk oħrajn fi hdan dak l-istess Stat, il-firma jew ir-ratifika, aċċettazzjoni jew approvazzjoni jew aċċessjoni tiegħu għal din il-Konvenzjoni, jew li jagħmel xi dikjarazzjoni taht l-Artikolu 26, m'għandu jkollhom ebda implikazzjoni dwar id-distribuzzjoni domestika tas-setgħat fi hdan dak l-iStat.

Artikolu 28

Jista' Stat Kontraenti, fil-waqt tal-firma, ratifika, aċċettazzjoni, approvazzjoni jew aċċessjoni, jirriserva d-dritt li jeskludi l-applikazzjoni ta' l-Artikolu 1 fil-każ ta' persuni li ma jkunux ċittadini ta' Stat Kontraenti iżda li jkollhom ir-residenza tagħhom tas-soltu fi Stat Kontraenti li ma jkunx l-iStat li jkun qed jagħmel ir-riserva jew li qabel kellhom ir-residenza tagħhom tas-soltu fl-iStat li jkun qed jagħmel ir-riserva, jekk ma jkunx hemm reċiproċità għat-trattament bejn l-iStat li jkun qed jagħmel ir-riserva u l-iStat li tiegħu jkunu ċittadini l-applikanti għall-ghajnuna legali.

Jista' Stat Kontraenti, fil-waqt tal-firma, ratifika, aċċettazzjoni, approvazzjoni jew aċċessjoni, jirriserva d-dritt li jeskludi -

(a) l-użu ta' l-Ingliż jew tal-Franċiż, jew tat-tnejn, taht il-paragrafu 2 ta' l-Artikolu 7;

(b) l-applikazzjoni tal-paragrafu 2 ta' l-Artikolu 13;

- (ċ) l-applikazzjoni tal-Kapitolu II;
- (d) l-applikazzjoni ta' l-artikolu 20.

Meta Stat ikun għamel riserva -

(e) taht il-paragrafu 2 (a) ta' dan l-Artikolu, bl-esklużjoni ta' l-użu ta' kemm l-Ingliż kemm il-Franċiż, kull Stat iehor li jintlaqat b'dan jista' japplika l-istess regola kontra l-iStat li jkun qed jagħmel ir-riserva;

(f) taht il-paragrafu 2 (b) ta' dan l-Artikolu, kull Stat iehor jista' jirrofta li japplika l-paragrafu 2 ta' l-Artikolu 13 għal persuni li jkunu ċittadini ta' l-iStat li jkun qed jagħmel ir-riserva, jew li soltu jkunu residenti fih;

(g) taht il-paragrafu 2 (ċ) ta' dan l-Artikolu, kull Stat iehor jista' jirrofta li japplika l-Kapitolu II lil persuni li jkunu ċittadini ta' l-iStat li jkun qed jagħmel ir-riserva, jew li soltu jkunu residenti fih.

M'għandha tkun permessa ebda riserva ohra.

Jista' Stat Kontraenti f'kull waqt jirtira riserva li jkun għamel. Dan l-irtirar għandu jiġi avżat lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda. Ir-riserva għandha ttejjem milli tibqa' ssehh fl-ewwel jum tat-tielet xahar kalendarju wara li jinghata dak l-avviż.

Artikolu 29

Kull Stat Kontraenti għandu, filwaqt li jkun qed isir id-depożitu ta' l-istrument tiegħu ta' ratifika jew aċċessjoni, jew f'xi data ulterjuri, jgħarraf lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda bin-nomina ta' awtoritajiet skond ma hemm fl-Artikoli 3, 4 u 16.

Dan għandu bl-istess mod jgħarraf lill-Ministeru, fejn hekk xieraq, b'dan li ġej -

- (a) id-dikjarazzjonijiet li jsiru konformi ma' l-Artikoli 5, 9, 16, 24, 25, 26 u 33;
- (b) kull irtirar jew modifika tan-nomini u dikjarazzjonijiet hawn aktar qabel indikati;
- (ċ) l-irtirar ta' kull riserva.

Artikolu 30

Il-formoli mudell annessi ma' din il-Konvenzjoni jistgħu jiġu emendati b'deċizzjoni tal-Kummissjoni Speċjali li titlaqqa' mis-Segretarju Ġenerali tal-

Konferenza ta' L-Aja li għaliha għandhom jiġu mistiedna kull Stat Kontraenti u kull Stat Membru. Avviż dwar il-proposta li jiġu emendati l-formoli għandu jkun inkluż fl-aġenda tal-laqgħa.

Emendi adottati minn maġġoranza ta' Stati Kontraenti preżenti u votanti fil-Kummissjoni Speċjali għandhom jibdeu ischhu għall-iStati Kontraenti kollha fl-ewwel jum tas-seba' xahar kalendarju li jiġi wara d-data li dawn ikunu ġew imwassa mis-Segretarju Ġenerali lill-iStati Kontraenti kollha.

Matul il-perjodu li hemm provdut dwaru fil-paragrafu 2, Stat Kontraenti jista' b'avviż li jagħti bil-miktub lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda jagħmel riserva dwar l-emenda. Parti li tkun qed tagħmel dik ir-riserva għandha sakemm tiġi irtirata dik ir-riserva tiġi trattata bħala Stat li mhux Parti fil-preżenti Konvenzjoni għar-rigward ta' dik l-emenda.

KAPITOLU IV

KLAWŻOLI FINALI

Artikolu 31

Il-Konvenzjoni tkun miftuħa għall-firma ta' l-iStati li kienu Membri tal-Konferenza ta' l-Aja fuq id-Dritt Internazzjonali Privat filwaqt ta' l-Erbatax-il Sessjoni tagħha u ta' Stati mhux-Membri li kienu mistiedna sabiex jipparteċipaw fit-thejjija tagħha.

Din għandha tiġi ratifikata, aċċettata jew approvata u l-istrumenti ta' ratifika, aċċettazzjoni jew approvazzjoni għandhom jiġu depożitati għand il-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda.

Artikolu 32

Kull Stat ichor jista' jaċċedi għall-Konvenzjoni.

L-istrument ta' aċċessjoni jiġi depożitat għand il-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda.

Dik l-aċċessjoni għandu jkollha sehħ biss dwar ir-relazzjonijiet bejn l-iStat li jkun qed jaċċedi u kull Stat Kontraenti li ma jkunx qajjem xi oġġezzjoni għall-aċċessjoni tiegħu matul it-tmax-il xahar wara li jkun wasal l-avviż imsemmi fis-subparagrafu 2 ta' l-Artikolu 36. Dik l-oġġezzjoni tista' wkoll titqajjem mill-iStati Membri fil-waqt li huma jkunu qegħdin jirratifikaw, jaċċettaw jew japprovaw il-Konvenzjoni wara aċċessjoni. Oġġezzjoni bħal dik għandha tiġi avzata lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda.

Artikolu 33

Stat jista', filwaqt tal-firma, ratifika, aċċettazzjoni, approvazzjoni jew

aċċessjoni, jiddikjara li l-Konvenzjoni ghandha testendi ghat-territorji kollha ghar-relazzjonijiet internazzjonali li dwarhom ikun responsabbli, jew ghal xi wicċed minnhom jew iktar. Dik id-dikjarazzjoni ghandha tibda ssehħ filwaqt li l-Konvenzjoni tidhol fis-sħħ ghal dak l-iStat.

Dik id-dikjarazzjoni, kif ukoll kull estensjoni li tiġi wara, ghandha tkun avżata lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda.

Artikolu 34

Il-Konvenzjoni ghandha tibda ssehħ fl-ewwel jum tat-tielet xahar kalendarju wara d-depożitu tat-tielet istrument ta' ratifika, aċċettazzjoni, approvazzjoni jew aċċessjoni msemmija fl-Artikoli 31 u 32.

Malli jsir dan, il-Konvenzjoni ghandha tibda ssehħ -

(1) ghal kull Stat li jkun qed jirratifika, jaċċetta, japprova jew jaċċedi għaliha sussegwentement, fl-ewwel jum tat-tielet xahar kalendarju wara d-depożitu ta' l-istrument ta' ratifika, aċċettazzjoni, approvazzjoni jew aċċessjoni tiegħu;

(2) ghal kull territorju jew qasam territorjali li għalih il-Konvenzjoni tkun ġiet estiża skond ma hemm fl-Artikolu 26 jew 33, fl-ewwel jum tat-tielet xahar kalendarju wara li jkun inghata l-avviż imsemmi f'dak l-Artikolu.

Artikolu 35

Il-Konvenzjoni ghandha tibqa' ssehħ ghal hames snin mid-data meta tidhol fis-sħħ skond l-ewwel paragrafu ta' l-Artikolu 34 ukoll ghal dawk l-iStati li jkunu sussegwentement irratifikawha, aċċettawha, approvawha jew aċċedew għaliha.

Jekk ma tkun saret ebda denunzja għaliha, din ghandha tiġġedded taċitament kull hames snin.

Kull denunzja ghandha tiġi avżata lill-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda, mill-inqas sitt xhur qabel l-iskadenza tal-perjodu ta' hames snin. Din tista' tkun limitata ghal dawk it-territorji jew oqsma territorjali li l-Konvenzjoni tkun tapplika għalihom.

Id-denunzja għandu jkollha sehħ biss dwar dak l-iStat li jkun ta avviż dwarha. Il-Konvenzjoni ghandha tibqa' ssehħ għall-iStati Kontraenti l-oħra.

Artikolu 36

Il-Ministeru għall-Affarijiet Barranin tar-Renju ta' l-Olanda għandu javża lill-iStati Membri tal-Konferenza, u l-iStati li jkunu aċċedew skond l-Artikolu 32, b'dan li ġej -

- (1) il-firem u r-ratifiki, aċċettazzjonijiet u approvazzjonijiet imsemmija fl-Artikolu 31;
- (2) l-aċċessjonijiet u l-oġġezzjonijiet li jsiru għall-aċċessjonijiet imsemmija fl-Artikolu 32;
- (3) id-data meta l-Konvenzjoni tidhol fis-seħh skond l-Artikolu 34;
- (4) id-dikjarazzjonijiet imsemmija fl-Artikoli 26 u 33;
- (5) kull riserva u irtirar imsemmija fl-Artikoli 28 u 30;
- (6) l-informazzjoni mwassla taht l-Artikolu 29;
- (7) id-denunzji msemija fl-Artikolu 35.

B'xiehda ta' dan is-sottofirmatarji, li ġew debitament awtorizzati jagħmlu dan, iffiraw din il-Konvenzjoni.

Magħmul fl-Aja fil- 25 ta' Ottubru, 1980, fil-lingwa Ingliża u dik Franċiża, iż-żewġ testi awtentiċi ndaqs, f'kopja unika li se tiġi depożitata fl-arkivji tal-Gvern tar-Renju ta' l-Olanda u li tagħha kopja awtentiċa għandha tintbagħat, permezz ta' kanali diplomatiċi, lil kull wieħed mill-iStati Membri tal-konferenza ta' L-Aja fuq id-Dritt Internazzjonali Privat fid-data ta' l-Erbatax-il Sessjoni tagħha u lil kull Stat ieħor li jkun ipparteċipa fit-thejija ta' din il-Konvenzjoni f'din is-Sessjoni.

ANNEX MAL-KONVENZJONI

Formola għat-trasmissjoni ta' applikazzjoni għall-ghajnuna legali

Konvenzjoni dwar l-Aċċess Internazzjonali għall-ġustizzja,
iffirmata fl-Aja fil-25 ta' Ottubru, 1980.

Identità u indirizz ta' l-awtorità trasmittenti	Indirizz ta' l- Awtorità Ċentrali li qed tirċievi
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L-awtorità trasmittenti hawn taht iffirata għandha l-unur li tittrasmetti lill Awtorità Ċentrali li qed tirċievi l-applikazzjoni hawn meħmuża għall-ghajnuna legali u l-anness magħha (dikjarazzjoni li tirrigwarda ċ-ċirkostanzi finanzjarji ta' l-applikant), għall-fini tal-Kapitolu I tal-Konvenzjoni hawn aktar qabel imsemmija.

Rimarki li jirrigwardaw l-applikazzjoni u d-dikjarazzjoni, jekk ikun hemm:

Rimarki oħra, jekk ikun hemm:

Magħmula fi illum.....

Firma u/jew timbru

FORMOLA MEHMUŻA MAL-KONVENZJONI

Applikazzjoni għall-ghajjnuna legali

Konvenzjoni dwar l-Access Internazzjonali għall-gustizzja,
iffirmata fl-Aja fil-25 ta' Ottubru, 1980.

1. Isem u indirizz ta' l-applikant għall-ghajjnuna legali.
2. Qorti jew tribunal fejn il-proċedimenti kienu nbdew jew ikunu se jinbdew (jekk dawn ikunu magħrufa)
3. (a) Kull mertu tal-proċedimenti; l-ammont tat-talba, jekk dan ikun japplika
(b) Jekk ikun japplika, elenku ta' dokumenti ta' appoġġ li jkollhom x'jaqsmu ma' proċedimenti mibdijin jew mahsubin*
(c) Isem u indirizz tal-parti li tkun kontra*
4. Data jew skadenza li jkollha x'taqsam ma' proċedimenti b'konsegwenzi legali għall-applikant, li jchteiġu trattament mgħaġġel ta' l-applikazzjoni*
5. Kull informazzjoni oħra rilevanti*
6. Magħmula fi illum.....
7. Firma ta' l-applikant

*Hassar jekk mhux meħtieġ.

Anness ma' l-applikazzjoni għall-ghajjnuna legali

Dikjarazzjoni li tirrigwarda ċ-ċirkostanzi finanzjarji ta' l-applikant

I Qaghda personali

8. kunjom (ta' xubitha, jekk dan japplika)

- (c) qliegħ minn titoli ta' sigurtà u flus li mhumiex investiti jew b'xi mod marbutin
- (f) qliegħ minn proprjetà ta' beni immobbli
- (g) ghejjun ohra ta' qliegħ
21. proprjetà ta' beni immobbli ta' l-applikant tal-konjuġi tal-persuni li jiddependu mill-applikant
- (jekk joghġbok iddikjara kull valur u obbligazzjoni)
22. attiv ichor ta' l-applikant tal-konjuġi tal-persuni li jiddependu mill-applikant
- (titoli ta' sigurtà, qsim ta' profitti, pretensjonijiet, kontijiet f'banek, kapital kummerċjali, eċċ.)
23. djun u obbligi finanzjarji ohra ta' l-applikant tal-konjuġi tal-persuni li jiddependu mill-applikant
- (a) self (iddikjara x-xorta, l-bilanċ li jrid jithallas u l-hlasijiet ta' kull sena jew xahar)
- (b) obbligi ta' manteniment (iddikjara xi hlas isir ta' kull xahar)
- (ċ) kera tad-dar (inklużi l-ispejjeż għat-tishin, elettriku, gass u ilma)
- (d) obbligi rikorrenti ohra

24. taxxa fuq *l-income* u kontribuzzjonijiet tas-sigurtà nazzjonali ghas-sena ta' qabel
25. rimarki ta' l-applikant
26. jekk dan ikun japplika, elenku ta' dokumenti mehmuża
27. Is-sottoskritt, billi jaf ghalkollox dwar il-penalitajiet ikkontemplati mill-igi ghal min jagħmel dikjarazzjoni falza, qiegħed jiddikjara li d-dikjarazzjoni hawn aktar qabel hi waħda shiħa u korretta.
28. Magħmul fi (post)
29. fil-jum (data)
30. (firma ta' l-applikant)

Taqsim D

**IL-KONVENZJONI TA' LUGANO FUQ IL-ĠURISDIZZJONI
U L-INFURZAR TA' SENTENZI F'AFFARIJJIET
ĊIVILI U KUMMERĊJALI**

(16 ta' Settembru, 1988)

Preambolu

L-iStati Kontraenti Gholja ghal din il-Konvenzjoni,

Herqana li jsahhu fit-territorji taghhom il-protezzjoni legali ta' persuni hemmhekk stabbiliti,

Filwaqt li Jqisu li hu mehtieg ghall-fini li tigi stabbilita l-ġurisdizzjoni internazzjonali tal-qrati taghhom, li jiffaċilitaw ir-rikonoxximent u li jintroduċu proċedura spedittiva biex jiżguraw l-infurzar ta' sentenzi tal-qrati, istrumenti awtentici u kull ftehim fil-qrati li jaghlaq kwistjonijiet,

Konxji minn kull rabta li teżisti bejniethom, li ġew sanzjonati fil-qasam ekonomiku minn kull ftehim ta' kummerċ hieles magħmul bejn Il-Komunità Ekonomika Ewropea (EEC) u l-iStati membri ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles (EFTA),

Filwaqt li Jqisu l-Konvenzjoni ta' Brussell tas-27 ta' Settembru 1968 dwar il-ġurisdizzjoni u l-infurzar ta' sentenzi tal-qrati f'affarijiet ċivili u kummerċjali, kif emendata bil-Konvenzjonijiet ta' Aċċessjoni taht kull tkabbir suċċessiv tal-Komunitajiet Ewropej,

Persważi li l-estensjoni tal-prinċipji ta' dik il-Konvenzjoni għall-iStati partijiet għal dan l-istrument se jsahhu l-ko-operazzjoni legali u ekonomika fl-Ewropa,

Xewqana li jiżguraw li jkun hemm interpretazzjoni kemm jista' jkun uniformi ta' dan l-istrument,

Iddeċidew f'dan l-ispirtu li jaghmlu din il-Konvenzjoni u Qablu kif ġej:

TITOLU I

Skop

Artikolu 1

Din il-Konvenzjoni għandha tkun tapplika f'affarijiet ċivili u kummerċjali tkun liema tkun ix-xorta tal-qorti jew tat-tribunal. Din m'għandhiex testendi, b'mod partikolari, għad-dhul tal-gvern, għad-dwana jew għal affarijiet

amministrattivi.

Il-Konvenzjoni ma tapplikax għal -

1. l-istatus jew il-kapaċità legali ta' persuni naturali, drittijiet dwar proprjetà li jtnisslu minn relazzjoni matrimonjali, testmenti u suċċessjonijiet;
2. falliment, proċedimenti li jkollhom x'jaqsmu max-xoljiment ta' kumpanniji jew persuni ġuridiċi ohra insolventi, arrangamenti ġudizzjarji, komposizzjonijiet u proċedimenti bħal dawn;
3. sigurtà soċjali;
4. arbitraġġ.

TITOLU II

Gurisdizzjoni

Sezzjoni 1 - Provvedimenti ġenerali

Artikolu 2

Bla hsara għall-provvedimenti ta' din il-Konvenzjoni, persuni domiciljati fi Stat Kontraenti għandhom, tkun liema tkun iċ-ċittadinanza tagħhom, jitharrku fil-qrati ta' dak l-iStat.

Persuni li ma jkunux ċittadini ta' l-iStat fejn ikunu domiciljati għandhom jiġu regolati bir-regoli ta' ġurisdizzjoni li jkunu japplikaw għal ċittadini ta' dak l-iStat.

Artikolu 3

Persuni domiciljati fi Stat Kontraenti jistgħu jitharrku fil-qrati ta' xi Stat Kontraenti iehor biss bis-saħħa tar-regoli stabbiliti fl-Artikoli 2 sa 6 ta' dan it-
Titolu.

B'mod partikolari dawn id-disposizzjonijiet li ġejjin m'għandhomx ikunu japplikaw kontrihom:

- fil-Belġju: Artikolu 15 tal-kodiċi ċivili (*Code civil - Burgerlijk Wetboek*) u Artikolu 638 tal-kodiċi ġudizzjarju (*Code judiciaire - Gerechtelijk Wetboek*),
- fid-Danimarka: Artikolu 246 (2) u (3) tal-liġi fuq il-proċedura ċivili (*Lov om retsens pleje*),
- fir-Repubblika Federali tal-Ġermanja: Artikolu 23 tal-kodiċi ta'

proċedura ċivili (*Zivilprozessordnung*),

- fil-Greċja: Artikolu 40 tal-kodiċi ta' proċedura ċivili (test Grieg),
- fi Franza: Artikoli 14 u 15 tal-kodiċi ċivili (*Code civil*),
- fl-Irlanda: ir-regoli li bis-sahha tagħhom il-ġurisdizzjoni tissejjes fuq id-dokument li bih jinbdew il-proċedimenti notifikat lill-konvenut matul il-preżenza temporanja tiegħu fl-Irlanda,
- fl-Islanda: Artikolu 77 ta' l-Att dwar il-Proċedimenti Ċivili (test Islandiż),
- fl-Italja: Artikoli 2 u 4, Nri 1 u 2 tal-kodiċi ta' proċedura ċivili (*Codice di procedura civile*),
- fil-Lussemburgu: Artikoli 14 u 15 tal-kodiċi ċivili (*Code civil*),
- fl-Olanda: Artikoli 126 (3) u 127 tal-kodiċi ta' proċedura ċivili (*Wetboek van Burgerlijke Rechtsvordering*),
- fin-Norveġja: Artikolu 32 ta' l-Att dwar il-Proċedimenti Ċivili (*tvistemalsloven*),
- fl-Awstrija: Artikolu 99 tal-Liġi fuq il-ġurisdizzjoni tal-Qrati (*Jurisdiktionsnorm*),
- fil-Portugall: Artikoli 65 (1) (c), 65 (2) u 65A (c) tal-kodiċi ta' proċedura ċivili (*Codigo de Processo Civil*) u Artikolu 11 tal-kodiċi ta' proċedura tax-xogħol (*Codigo de Processo de Trabalho*),
- fl-Isvizzera: *le for du lieu du sequestre/Gerichtsstand des Arrestortes/foro del luogo del sequestro* fil-kuntest tat-tifsira ta' Artikolu 4 ta' *loi federale sur le droit international prive/Bundesgesetz uber das internationale Privatrecht/legge federale sul diritto internazionale privato*,
- fil-Finlandja: it-tieni, it-tielet u r-raba' sentenzi ta' Artikolu 1 tal-Kapitolu 10 tal-Kodiċi ta' Proċedura Ċivili (test Finlandiż),
- fl-Isvezja: l-cwwel sentenza ta' Artikolu 3 tal-Kapitolu 10 tal-Kodiċi ta' Proċedura ġudizzjarja (*Rattegangsbalken*),
- fir-Renju Unit: ir-regoli li jippermettu l-ġurisdizzjoni li tissejjes fuq:
 - (a) id-dokument li bih jinbdew il-proċedimenti notifikat lill-konvenut matul il-preżenza temporanja tiegħu fir-Renju Unit; jew

(b) li jkun hemm fir-Renju Unit proprjetà li tkun tappartjeni lill-konvenut; jew

(ċ) il-qbid mill-attur ta' proprjetà li tkun tinsab fir-Renju Unit.

Artikolu 4

Meta l-konvenut ma jkunx domiciljat fi Stat Kontraenti, il-ġurisdizzjoni tal-qrati ta' kull Stat Kontraenti għandha, bla hsara għall-provvedimenti ta' l-Artikolu 16, tiġi stabbilita bil-ligi ta' dak l-iStat.

Kontra tali konvenut, persuna domiciljata fi Stat Kontraenti tista', tkun liema tkun iċ-ċittadinanza tiegħu, tiddisponi ruhha f'dak l-iStat mir-regoli ta' ġurisdizzjoni li jkunu hemmhekk isehhu, u b'mod partikolari dawk speċifikati fit-tieni paragrafu ta' l-Artikolu 3, bl-istess mod bħal ċittadini ta' dak l-iStat.

Sezzjoni 2 - Ġurisdizzjoni Speċjali

Artikolu 5

Persuna domiciljata fi Stat Kontraenti tista', fi Stat Kontraenti iħor tiġi mħarrka:

1. dwar affarijiet li jkunu jirrigwardaw xi kuntratt, fil-qrati tal-post fejn ikollha titwettaq l-obbligazzjoni in kwistjoni: dwar affarijiet li jkunu jirrigwardaw kuntratti ta' impjeg individwali, dan il-post ikun dak fejn l-impjegat soltu jwettaq ix-xogħol tiegħu, jew jekk l-impjegat ma jkunx soltu jwettaq ix-xogħol tiegħu f'xi pajjiż wieħed biss, dan il-post għandu jkun il-post tan-negozju li permezz tiegħu huwa ġie ingaġġat;

2. dwar affarijiet li jkunu jirrigwardaw il-manteniment, fil-qrati tal-post fejn il-kreditur tal-manteniment ikun domiciljat jew soltu residenti jew, jekk il-kwistjoni tkun anċillari għal proċedimenti li jirrigwardaw l-istatus ta' xi persuna, fil-qorti li, skond il-ligi relattiva, jkollha ġurisdizzjoni li quddiema jsiru dawk il-proċedimenti, kemm-il darba dik il-ġurisdizzjoni ma tkunx unikament imsejsa fuq iċ-ċittadinanza ta' xi waħda minn dawk il-partijiet;

3. dwar affarijiet li jkunu jirrigwardaw tort, delitt jew kważi delitt, fil-qrati tal-post fejn tkun grāt il-ġrajja dannuża;

4. dwar xi talba ċivili għad-danni jew għar-restituzzjoni li tkun imsejsa fuq xi att li jagħti lok għal proċedimenti kriminali, fil-qorti li tkun qed tisma' dawk il-proċedimenti, sal-limitu li dik il-qorti jkollha ġurisdizzjoni taht il-ligi relattiva li tisma' proċedimenti ċivili;

5. dwar xi tilwima li toriġina mit-thaddim ta' xi fergħa, aġenzija jew

stabbiliment ieħor, fil-qrati tal-post fejn il-fergha, aġenzija jew stabbiliment ieħor jkunu jinsabu;

6. fil-kapaċità tiegħu ta' *settlor, trustee* jew benefiċjarju ta' *trust* originata bl-operat ta' xi statut, jew b'istrument miktub, jew originat bil-fomm u li għalih ikun hemm xieħda bil-miktub, fil-qrati ta' l-iStat Kontraenti fejn it-*trust* ikun domiciljat;

7. dwar xi tilwima li tkun tolqot il-hlas ta' rimuncrazzjoni mitluba għas-salvataġġ ta' xi tagħbija jew merkanzija, fil-qorti li taht l-awtorità tagħha l-merkanzija jew it-tagħbija in kwistjoni:

(a) jkunu ġew arrestiti sabiex jiżguraw li jsir dak il-hlas, jew

(b) setgħu ġew hekk arrestiti, imma tkun inghatat garanzija permezz ta' *bail* jew xi garanzija oħra: iżda dan il-provvediment għandu jkun japplika biss jekk jiġi vantat li l-konvenut ikollu xi interess fit-tagħbija jew fil-merkanzija jew li kellu xi interess bħal dak fil-waqt tas-salvataġġ.

Artikolu 6

Persuna domiciljata fi Stat Kontraenti tista' wkoll tiġi mharrka:

1. meta din tkun waħda minn għadd ta' konvenuti, fil-qrati tal-post fejn xi waħda minnhom tkun domiciljata;

2. bħala terza parti f'azzjoni dwar xi garanzija jew garanti jew f'xi proċedimenti oħra dwar terzi, fil-qorti li tkun qed tisma' l-proċedimenti originali, kemm-il darba dawn ma jkunux ġew istitwiti unikament bl-iskop li jneħħuha mill-ġurisdizzjoni tal-qorti li kieku kienet tkun kompetenti fil-każ tagħha;

3. dwar kontro-talba li toriġina mill-istess kuntratt jew fatti li fuqhom kienet imsejsa t-talba originali, fil-qorti fejn it-talba originali tkun għadha pendenti;

4. fi kwistjonijiet li jkollhom x'jaqsmu ma' kuntratt, jekk l-azzjoni tkun tista' tiġi kombinata ma' azzjoni kontra l-istess konvenut fi kwistjonijiet li jkollhom x'jaqsmu ma' jeddijiet *in rem* dwar proprjetà immobbli, fil-qorti ta' l-iStat Kontraenti fejn tkun tinsab il-proprjetà.

Artikolu 6A

Meta bis-saħħa ta' din il-Konvenzjoni xi qorti ta' Stat Kontraenti jkollha ġurisdizzjoni f'azzjonijiet li jkollhom x'jaqsmu mar-responsabbiltà li toriġina mill-użu jew mit-thaddim ta' bastiment, il-qorti, jew kull qorti oħra sostitwita għal dak l-għan mil-liġi domestika ta' dak l-iStat, jkollha wkoll ġurisdizzjoni fuq talbiet

ghal-limitazzjoni ta' dik ir-responsabbiltà.

Sezzjoni 3 - Ġurisdizzjoni fi kwistjonijiet li jirrigwardaw l-assigurazzjoni

Artikolu 7

Fi kwistjonijiet li għandhom x'jaqsmu ma' l-assigurazzjoni, il-ġurisdizzjoni għandha tiġi stabbilita b'din is-Sezzjoni, minghajr preġudizzju għad-disposizzjonijiet ta' l-Artikoli 4 u 5(5).

Artikolu 8

Assiguratur li jkun domiciljat fi Stat Kontraenti jista' jiġi mharrek:

1. fil-qrati ta' l-iStat fejn ikun domiciljat, jew
2. f'xi Stat Kontraenti ichor, fil-qrati tal-post fejn id-detentur tal-polza jkun domiciljat, jew
3. jekk ikun ko-assiguratur, fil-qrati ta' Stat Kontraenti fejn il-proċedimenti jsiru kontra l-ewwel assicuratur.

Assiguratur li ma jkunx domiciljat fi Stat Kontraenti iżda li jkollu xi ferġha, aġenzija jew stabbiliment ichor f'xi wiehed mill-iStati Kontraenti għandu, f'tilwimiet li joriġinaw mill-operazzjonijiet tal-ferġha, aġenzija jew stabbiliment, jitqies bhala li jkun domiciljat f'dak l-iStat.

Artikolu 9

Għar-rigward ta' l-assigurazzjoni dwar ir-responsabbiltà jew l-assigurazzjoni tal-proprjetà immobbli, l-assicuratur jista' iktar minn hekk jiġi mharrek fil-qrati tal-post fejn tkun saret il-ġrajja dannuża. L-istess japplika jekk proprjetà sew mobbli sew immobbli jkunu koperti bl-istess polza ta' assicurazzjoni u t-tnejn li huma jintlaqtu hażin bl-istess kontinġenza.

Artikolu 10

Għar-rigward ta' l-assigurazzjoni dwar ir-responsabbiltà, l-assicuratur jista' wkoll, jekk il-liġi tal-qorti tkun tippermetti dan, jiddaħhal fi proċedimenti li l-parti offiża tkun għamlet kontra l-assicuratur.

Id-disposizzjonijiet ta' l-artikoli 7, 8 u 9 għandhom japplikaw għal azzjonijiet li jingiebu mill-parti offiża direttament kontra l-assicuratur, meta daww l-azzjonijiet diretti jkunu permessi.

Jekk il-liġi li tirregola daww l-azzjonijiet diretti tkun tipprovdi li d-detentur tal-polza jew l-assicuratur jistgħu jiddaħhlu bhala parti fl-azzjoni, l-istess qorti għandu jkollha ġurisdizzjoni fuqhom.

Artikolu 11

Minghajr preġudizzju għad-disposizzjonijiet tat-tielet paragrafu ta' l-Artikolu 10, assigurat jista' jibda proċeduri biss fil-qrati ta' l-iStat Kontraenti fejn il-konvenut jkollu d-domicilju tiegħu, irrispettivament minn jekk huwa jkunx id-detentur tal-polza, l-assigurat jew il-benefiċjarju.

Id-disposizzjonijiet ta' din is-Sezzjoni m'għandhomx jolqtu d-dritt li titressaq kontro-talba fil-qorti fejn, skond is-Sezzjoni, it-talba oriġinali tkun għadha pendenti.

Artikolu 12

Id-disposizzjonijiet ta' din is-Sezzjoni jistgħu jitwarrbu biss billi jkun hemm ftehim dwar il-ġurisdizzjoni:

1. li jsir wara li tinqala' t-tilwima, jew
2. li jkun jippermetti lid-detentur tal-polza, lill-assigurat jew lill-benefiċjarju li jibdew proċeduri fi qrati li ma jkunux dawk indikati f'din is-Sezzjoni, jew
3. li jsir bejn detentur ta' polza u assigurat, li t-tnejn li huma jkunu fil-waqt meta jsir il-kuntratt domiciljati jew abitwalment residenti fl-istess Stat Kontraenti, u li jkollu l-effett li jikkonferixxi ġurisdizzjoni fuq il-qrati ta' dak l-iStat ukoll jekk il-ġrajja dannuża kellha tiġri barra mill-pajjiż, sakemm dak il-ftehim ma jkunx imur kontra l-liġi ta' dak l-iStat, jew
4. li jsir ma' detentur ta' polza li ma jkunx domiciljat fi Stat Kontraenti, hlief sakemm l-assigurazzjoni tkun tabilfors jew ikollha x'taqsam ma' proprjetà immobbiljari fi Stat Kontraenti, jew
5. li jkollu x'jaqsam ma' kuntratt ta' l-assigurazzjoni sakemm dan ikun ikopri xi riskju wiehed jew iktar minn dawk stipultati fl-Artikolu 12A.

Artikolu 12A

Dawn li ġejjin huma r-riskji msemmija fl-Artikolu 12(5):

1. xi telfien jew hsara lil:
 - (a) bastimenti li jbahhru fil-baħar il-kbir, stallazzjonijiet sitwati 'l barra mix-xtut jew fil-baħar il-kbir, jew inġenji ta' l-ajru, li jiġi kaġunat minn perikli li jkollhom x'jaqsmu ma' l-użu tagħhom għal finijiet kummerċjali,
 - (b) oġġetti li jkunu qed jingarru li ma jkunux valiġġi tal-passiġġieri meta dak il-ġarr ikun jikkonsisti fi trasport, jew jinkludi

trasport, minn dawk il-bastimenti jew inġenji ta' l-ajru:

2. kull responsabbiltà, hliet għall-feriment fil-persuna tal-passiġġieri jew telfien jew hsara fil-valiġġa tagħhom:

(a) li toriġina mill-użu jew it-thaddim ta' bastimenti, stallazzjonijiet jew inġenji ta' l-ajru kif imsemmija f'(1)(a) hawn aktar qabel sakemm il-liġi ta' l-iStat Kontraenti fejn dawk l-inġenji ta' l-ajru jkunu reġistrati ma tkunx tipprojbixxi milli jsir xi ftehim fuq il-ġurisdizzjoni dwar l-assigurazzjoni ta' dawk ir-riskji.

(b) għal telfien jew hsara kaġunata minn oġġetti li jkunu qed jingarru kif deskritti f'(1)(b) hawn aktar qabel;

3. kull telfien finanzjarju konness ma' l-użu jew it-thaddim ta' bastimenti, stallazzjonijiet jew inġenji ta' l-ajru kif imsemmija f'(1)(a) hawn aktar qabel, partikolarment it-telfien ta' merkanzija għall-ġarr jew kiri permezz ta' *charter*;

4. kull riskju jew interess konness ma' xi wiehed minn dawk imsemmija f'(1) sa (3) hawn aktar qabel.

Sezzjoni 4 - Ġurisdizzjoni fuq kuntratti ta' konsumaturi

Artikolu 13

Fi proċeduri li jirrigwardaw kuntratt li jkun sar minn persuna għal fini li jista' jitqies bħala li johroġ 'il barra min-negozju jew il-professjoni tagħha, hawnhekk iżjed 'il quddiem imsejjah il-konsumatur, il-ġurisdizzjoni għandha tiġi stabbilita b'din is-Sezzjoni, minghajr preġudizzju għad-disposizzjonijiet ta' l-Artikoli 4 u 5(5), jekk dan ikun:

1. kuntratt għall-bejgħ ta' oġġetti b'pattijiet ta' kreditu li jithallas b'rati, jew

2. kuntratt għal self li jithallas b'rati, jew għal kull għamla oħra ta' kreditu, li jsir biex jiffinanzja l-bejgħ ta' oġġetti, jew

3. kull kuntratt ichor għall-provvista ta' oġġetti jew kuntratt għall-provvista ta' servizzi, u

(a) fl-iStat fejn il-konsumatur ikollu d-domicilju tiegħu, l-għemil tal-kuntratt kien preċedut bi stedina speċifika lil indirizzata jew permezz ta' reklamar, u

(b) il-konsumatur jkun ha f'dak l-iStat il-passi meħtieġa sabiex isir dak il-kuntratt.

Meta konsumatur jagħmel kuntratt ma' xi parti li ma jkollhiex id-domicilju tagħha fi Stat Kontraenti iżda li jkollha fergha, aġenzija jew stabbiliment ieħor f'xi Stat Kontraenti wieħed li jkun, dik il-parti għandha, meta jinqalghu tilwimiet dwar it-thaddim tal-fergha, aġenzija jew stabbiliment, titqies bħala li jkollha d-domicilju tagħha f'dak l-iStat.

Din is-Sezzjoni m'għandhiex tkun tapplika għal kuntratti ta' trasport.

Artikolu 14

Konsumatur jista' jibda proċeduri kontra l-parti l-oħra f'kuntratt sew fil-qrati ta' l-iStat Kontraenti li fih dik il-parti jkollha d-domicilju tagħha sew fil-qorti ta' l-iStat Kontraenti fejn il-konsumatur ikollu d-domicilju tiegħu.

Jistgħu jingiebu proċeduri kontra konsumatur mill-parti l-oħra fil-kuntratt biss fil-qrati ta' l-iStat Kontraenti fejn il-konsumatur ikollu d-domicilju tiegħu.

Dawn id-disposizzjonijiet m'għandhomx jolqtu d-dritt li tingieb kontrotalba fil-qorti fejn, skond din is-Sezzjoni, tkun pendenti t-talba oriġinali.

Artikolu 15

Id-disposizzjonijiet ta' din is-Sezzjoni jistgħu biss ma jitwettqux meta jkun hemm ftehim f'dan is-sens:

1. li jsir wara li tkun oriġinat it-tilwima, jew
2. li jkun jippermetti lill-konsumatur li jibda proċeduri fi qrati li ma jkunux dawk indikati f'din is-Sezzjoni, jew
3. li jkun sar mill-konsumatur u mill-parti l-oħra fil-kuntratt, li t-tnejn li huma jkunu fil-waqt ta' l-għemil tal-kuntratt domiciljati jew abitwalment residenti fl-istess Stat Kontraenti, u li jkun jagħti ġurisdizzjoni lill-qrati ta' dak l-iStat, sakemm dak il-ftehim ma jkunx imur kontra l-liġi ta' dak l-iStat.

Sezzjoni 5 - Ġurisdizzjoni esklużiva

Artikolu 16

Dawn il-qrati li ġejjin għandu jkollhom ġurisdizzjoni esklużiva, ikun x'ikun id-domicilju:

1. (a) fi proċeduri li jkollhom b'għan tagħhom id-drittijiet *in rem* tal-proprjetà immobbli jew l-użu jew kiri ta' proprjetà immobbli, il-qrati ta' Stat Kontraenti fejn tkun sitwata l-proprjetà;

(b) madankollu, fi proċeduri li jkollhom b'għan tagħhom l-użu jew

kiri ta' proprjetà immobbli li jsiru għal użu privat temporanju għal perjodu massimu ta' sitt xhur konsekuttivi, il-qrati ta' l-iStat Kontraenti fejn il-konvenut ikollu d-domicilju tiegħu għandu jkollhom ukoll ġurisdizzjoni, sakemm il-kerrej jew l-okkupant ikun persuna naturali u la parti lanqas l-oħra ma jkollha d-domicilju tagħha fl-iStat Kontraenti fejn tkun sitwata l-proprjetà:

2. fi proċeduri li jkollhom b'objettiv il-validità tat-twaqqif, in-nullità jew ix-xoljiment ta' kumpanniji jew ta' persuni legali oħra jew ta' assoċjazzjonijiet ta' persuni naturali jew legali, jew id-deċiżjonijiet ta' l-organi tagħhom, il-qrati ta' l-iStat Kontraenti fejn il-kumpannija, persuna legali jew assoċjazzjoni jkollha s-sede tagħha;

3. fi proċeduri li jkollhom b'objettiv il-validità ta' kitbiet f'registri pubbliċi, il-qrati ta' l-iStat Kontraenti fejn jinżamm ir-registru;

4. fi proċeduri li jkollhom x'jaqsmu mar-registrazzjoni jew il-validità ta' privattivi, *trademarks*, disinni jew drittijiet simili oħra li jkunu meħtieġa li jiġu depożitati jew registrati, il-qrati ta' l-iStat Kontraenti fejn tkun saret applikazzjoni għad-depożitu jew għar-registrazzjoni, jew fejn dawn ikunu graw jew ikunu taht il-pattijiet ta' konvenzjoni internazzjonali li titqies li tkun grat;

5. fi proċeduri li jkollhom x'jaqsmu ma' l-infurzar ta' sentenzi, il-qrati ta' l-iStat Kontraenti fejn tkun giet infurzata jew ikollha tiġi infurzata sentenza.

Sezzjoni 6 - Proroga ta' ġurisdizzjoni

Artikolu 17

1. Jekk il-partijiet, li wiehed jew iktar minnhom ikun domiciljat fi Stat Kontraenti, jkunu fteħmu li xi qorti jew li l-qrati ta' xi Stat Kontraenti għandu jkollhom ġurisdizzjoni biex isolvu xi tilwimiet li jkunu oriġinaw jew li jistgħu joriġinaw f'dak li għandu x'jaqsmu ma' xi relazzjoni legali partikolari, dik il-qorti jew dawk il-qrati għandu jkollhom ġurisdizzjoni esklużiva. Dak il-fteħim li jkun jikkonferixxi ġurisdizzjoni għandu jkun jew:

(a) bil-miktub jew li tingieb prova dwaru bil-miktub, jew

(b) f'għamla li tkun taqbel ma' kull parattika li l-partijiet ikunu stabbilew bejniethom, jew

(ċ) f'kummeré jew negozju internazzjonali, f'għamla li tkun taqbel ma' xi użanza li l-partijiet ikunu jafu biha jew kien imisshom jafu biha u li f'kummeré jew negozju bhal dak tkun magħrufa sew lil, u osservata regolarment minn, partijiet f'kuntratti tat-tip involut fil-kummeré jew negozju partikolari konċernat.

Meta dak il-fteħim isir minn partijiet, li ebda waħda minnhom ma jkollha d-domicilju tagħha fi Stat Kontraenti, il-qrati ta' kull Stat Kontraenti ichor m'għandu

jkollhom ebda ġurisidizzjoni fuq it-tilwimiet tagħhom kemm-il darba l-qorti jew il-qrati magħżula ma jkunux irroftaw il-ġurisidizzjoni.

2. Il-qorti jew il-qrati ta' Stat Kontraenti li fuqhom istrument ta' *trust* ikun ta' ġurisidizzjoni għandu jkollhom ġurisidizzjoni esklużiva f'kull proċeduri li jsiru kontra *settlor*, *trustee* jew benefiċjarju, jekk ikunu involuti r-relazzjonijiet bejn dawn il-persuni jew id-drittijiet jew l-obbligazzjonijiet tagħhom taht it-*trust*.

3. Ftehim jew disposizzjoni ta' istrument ta' *trust* li jkunu jagħtu ġurisidizzjoni m'għandu jkollhom ebda forza legali jekk dawn ikunu jmorru kontra d-disposizzjonijiet ta' l-Artikoli 12 jew 15, jew jekk il-qrati li l-ġurisidizzjoni tagħhom jkollhom intenzjoni li jeskludu jkollhom ġurisidizzjoni esklużiva bis-saħħa ta' l-Artikolu 16.

4. Jekk ftehim li jagħti ġurisidizzjoni jkun sar għall-benefiċċju ta' biss wahda mill-partijiet, dik il-parti għandha żżomm id-dritt li tibda proċeduri f'xi qorti oħra li tkun u li jkollha ġurisidizzjoni bis-saħħa ta' din il-Konvenzjoni.

5. F'dak li għandu x'jaqsam ma' kuntratti individwali ta' impieg ftehim li jagħti ġurisidizzjoni għandu jkollu saħħa legali biss jekk dan isir wara li tkun originat it-tilwima.

Artikolu 18

Minbarra ġurisidizzjoni li tinkiseb minn disposizzjonijiet oħra ta' din il-Konvenzjoni, qorti ta' Stat Kontraenti li quddiemha jidher konvenut, għandu jkollha ġurisidizzjoni. Din ir-regola m'għandhiex tapplika meta dik id-dehra tkun saret unikament sabiex tiġi kontestata l-ġurisidizzjoni, jew fejn qorti oħra jkollha ġurisidizzjoni esklużiva bis-saħħa ta' l-Artikolu 16.

Sezzjoni 7 - Eżami dwar il-ġurisidizzjoni u l-ammissibilità

Artikolu 19

Meta qorti ta' Stat Kontraenti tkun qed tiegħu konjizzjoni ta' talba li jkollha prinċipalment x'taqsam ma' xi haġa li dwarha l-qrati ta' Stat Kontraenti ichor jkollhom ġurisidizzjoni esklużiva bis-saħħa ta' l-Artikolu 16, hija għandha tiddikjara minn jeddha li m'għandha ebda ġurisidizzjoni.

Artikolu 20

Meta konvenut domiciljat fi Stat Kontraenti wicġed jitharrek fil-qorti ta' Stat Kontraenti ichor u ma jidhirx quddiemha meta jkun dovut, il-qorti għandha tiddikjara minn jeddha li m'għandhiex ġurisidizzjoni sakemm il-ġurisidizzjoni tagħha ma toriġinax mid-disposizzjonijiet ta' din il-Konvenzjoni.

Il-qorti għandha twaqqaf il-proċeduri sakemm ma jidhirx li l-konvenut kien kapaċi jirċievi d-dokument li jibda l-proċeduri jew xi dokument ekwivalenti

biżżejjed fil-hin sabiex ikun jista' jagħmel arrangamenti dwar id-difiża tiegħu, jew li jkunu ttiehdu l-passi kollha meħtieġa għal dan l-iskop.

Id-disposizzjonijiet tal-paragrafu ta' qabel dan għandhom jiġu sostitwiti b'dawk ta' l-Artikolu 15 tal-Konvenzjoni ta' L-Aja tal-15 ta' Novembru ta' l-1965 fuq in-notifika barra mill-pajjiż ta' kull dokument ġudizzjarju jew estraġudizzjarju f'affarijiet ċivili jew kummerċjali, jekk id-dokument li jkun jibda l-proċeduri jew avviz dwar dan kellu jiġi trasmess barra mill-pajjiż skond dik il-Konvenzjoni.

Sezzjoni 8 - *Lis Pendens* - azzjonijiet relatati

Artikolu 21

Meta proċeduri li jkunu jinvolvu l-istess kawża ta' azzjoni u bejn l-istess partijiet jinġiebu fil-qorti ta' Stati Kontraenti differenti, kull qorti li ma tkunx il-qorti li l-ewwel tittratta l-każ għandha minn jeddha twaqqaf il-proċeduri sa dak iż-żmien meta tiġi stabbilita l-ġurisdizzjoni tal-qorti li l-ewwel tittratta l-każ.

Meta tiġi stabbilita l-ġurisdizzjoni tal-qorti li l-ewwel tittratta l-każ, kull qorti oħra li ma tkunx il-qorti li l-ewwel tittratta l-każ għandha tirrofta l-ġurisdizzjoni favur dik il-qorti.

Artikolu 22

Meta jinġiebu azzjonijiet relatati fil-qorti ta' Stati Kontraenti differenti, kull qorti li ma tkunx il-qorti li l-ewwel tittratta l-każ tista', filwaqt li l-azzjonijiet ikunu għadhom pendenti fl-ewwel istanza, twaqqaf il-proċeduri tagħha.

Qorti li ma tkunx il-qorti li l-ewwel tittratta l-każ tista' wkoll, meta jsir rikors minn xi wahda mill-partijiet, tirrofta l-ġurisdizzjoni jekk il-liġi ta' dik il-qorti tkun tippermetti l-konsolidazzjoni ta' azzjonijiet relatati u l-qorti li l-ewwel tittratta l-każ ikollha ġurisdizzjoni fuq iż-żewġ azzjonijiet li jkunu.

Għall-finijiet ta' dan l-Artikolu, azzjonijiet jitqiesu li jkunu relatati meta dawn ikun marbutin ma' xulxin daqshekk mill-qrib li jkun spedjenti li dawn jinstemgħu u jiġu ttrattati flimkien sabiex jiġi evitat kull riskju ta' sentenzi li ma jaqblux ma' xulxin minhabba fi proċeduri separati.

Artikolu 23

Meta azzjonijiet jokkorru fil-kuntest ta' ġurisdizzjoni esklużiva ta' diversi qrati, kull qorti li ma tkunx il-qorti li l-ewwel tittratta l-każ għandha tirrofta l-ġurisdizzjoni favur dik il-qorti.

Sezzjoni 9 - Miżuri proviżorji, inklużi dawk protettivi

Artikolu 24

Jista' jsir rikors quddiem il-qrati ta' Stat Kontraenti għal dawk il-miżuri proviżorji, inklużi dawk protettivi, li jistgħu jkunu disponibbli taht il-liġi ta' dak l-iStat, ukoll jekk, taht din il-Konvenzjoni, il-qrati ta' xi Stat Kontraenti ichor ikollhom ġurisdizzjoni dwar is-sustanza tal-mertu.

TITOLU III

Għarfien u Infurzar

Artikolu 25

Għall-finijiet ta' din il-Konvenzjoni, sentenza tfisser sentenza mogħtija minn qorti jew tribunal ta' Stat Kontraenti, tissejjah b'liema mod ikun dik is-sentenza, inkluż digriet, ordni, deċiżjoni jew mandat, kif ukoll kif jiġu stabbiliti l-ispejjeż jew in-nefġiet minn xi uffiċjal tal-qorti.

Sezzjoni 1 - Għarfien

Artikolu 26

Sentenza mogħtija fi Stat Kontraenti għandu jkollha għarfien fl-iStati Kontraenti l-oħra mingħajr il-htieġa ta' ebda proċedura speċjali.

Parti interessata li tqajjem il-kwistjoni ta' l-għarfien ta' sentenza bhala l-kwistjoni prinċipali f'tilwima tista', skond il-proċeduri li hemm ipprovdut dwarhom fis-Sezzjonijiet 2 u 3 ta' dan it-Titolu, tapplika għal deċiżjoni li sentenza tinghata għarfien.

Jekk l-eżitu tal-proċeduri f'xi qorti ta' Stat Kontraenti jkun jiddependi fuq li tiġi stabbilita xi kwistjoni inċidentali ta' għarfien, dik il-qorti għandu jkollha ġurisdizzjoni fuq dik il-kwistjoni.

Artikolu 27

Sentenza ma tinghatax għarfien:

1. jekk dak l-għarfien ikun imur kontra l-*public policy* fl-iStat fejn ikun qed jintalab l-għarfien;
2. meta din tkun inghatat minhabba f'xi kontumaċja, jekk il-konvenut ma jkunx ġie debitament notifikat bid-dokument li jkun beda l-proċeduri jew b'xi dokument ekwivalenti fi żmien biżżejjed sabiex huwa jkun jista' jhejji d-difiża tiegħu;

3. jekk is-sentenza ma tkunx taqbel ma' xi sentenza moghtija f'tilwima bejn l-istess partijiet fl-iStat fejn ikun qed jintalab l-gharfien;

4. jekk il-qorti ta' l-ewwel Stat, sabiex tasal ghas-sentenza taghha, tkun iddeċidiet xi kwistjoni preliminari li tolqot l-istatus jew il-kapaċità legali ta' persuni naturali, jeddijiet dwar il-proprjetà li jitnislu minn relazzjoni matrimonjali, testmenti jew suċċessjoni b'xi mod li jikkonfliġġi ma' xi regola tad-dritt internazzjonali privat ta' l-iStat fejn ikun qiegħed jintalab l-gharfien, kemm-il darba l-istess riżultat ma jkunx intlaħaq bl-applikazzjoni tar-regoli tad-dritt internazzjonali privat ta' dak l-iStat;

5. jekk is-sentenza ma tkunx taqbel ma' xi sentenza moghtija qabel f'xi Stat Mhux-Kontraenti ghar-rigward ta' l-istess kawża ta' azzjoni u bejn l-istess partijiet, sakemm din l-aħhar sentenza tkun twettaq il-kondizzjonijiet meħtieġa għall-gharfien taghha fl-iStat indirizzat.

Artikolu 28

Iktar minn hekk, sentenza m'għandhiex tinghata għarfien jekk din tkun tikkonfliġġi mad-disposizzjonijiet tat-Taqsimiet 3, 4 jew 5 tat-Titolu II jew f'xi każ li hemm ipprovdut dwaru fl-Artikolu 59.

Sentenza tista' iktar u iktar tinċahad milli tinghata għarfien f'xi każ minn dawk ikkontemplati fl-Artikolu 54B(3) jew 57(4).

Fl-eżami taghha tar-raġunijiet għall-ġurisdizzjoni msemmija fil-paragrafi ta' qabel dan, il-qorti jew awtorità li quddiemha jsir ir-rikors għandha tkun marbuta bir-riżultanzi tal-mertu li fuqhom il-qorti ta' l-ewwel Stat tkun sejsset il-ġurisdizzjoni taghha.

Bla hsara għad-disposizzjonijiet ta' l-ewwel u t-tieni paragrafi, il-ġurisdizzjoni tal-qorti ta' l-ewwel Stat ma tistax tiġi riveduta: il-prova tal-*public policy* imsemmija fl-Artikolu 27(1) ma tistax tiġi applikata għar-regoli dwar il-ġurisdizzjoni.

Artikolu 29

Taht ebda ċirkostanza ma tista' sentenza barranija tiġi riveduta dwar is-sustanza taghha.

Artikolu 30

Qorti ta' Stat Kontraenti li fih jintalab li jinghata għarfien lil xi sentenza moghtija fi Stat Kontraenti ichor tista' twaqqaf il-proċeduri jekk ikun sar appell kif soltu jsir minn dik is-sentenza.

Qorti ta' Stat Kontraenti li fih jintalab li jinghata għarfien lil xi sentenza moghtija fl-Irlanda jew fir-Renju Unit tista' twaqqaf il-proċeduri jekk l-

eżekuzzjoni tkun ġiet sospiża fl-cwwel Stat għax ikun sar appell.

Sezzjoni 2 - Eżekuzzjoni

Artikolu 31

Sentenza li tinghata fi Stat Kontraenti u li tkun eżegwibbli f'dak l-iStat għandha tiġi eżegwita fi Stat Kontraenti iehor meta, wara li jsir rikors minn kull parti li jista' jkollha interess, din tiġi dikjarata li tista' tiġi hemm eżegwita.

Iżda, fir-Renju Unit, tali sentenza għandha tiġi eżegwita fl-Ingilterra u Wales, fl-Iskozja, jew fl-Irlanda tan-Nord meta, wara li jsir rikors minn kull parti li jista' jkollha interess, din tkun ġiet reġistrata sabiex tiġi eżegwita f'dik il-parti tar-Renju Unit.

Artikolu 32

1. Ir-rikors għandu jsir quddiem:

- fil-Belġju, *tribunal de premiere instance* jew *rechtbank van eerste aanleg*,
- fid-Danimarka, *byret*,
- fir-Repubblika Federali tal-Ġermanja, l-imħallef li jippresjedi l-awla tal- *Landgericht*,
- fil-Greċja, (test grieg),
- fi Spanja, *Juzgado de Primera Instancia*,
- fi Franza, l-imħallef li jippresjedi fit-*tribunal de grande instance*,
- fl-Irlanda, *High Court*,
- fl-Islanda, *heradsdomari*,
- fl-Italja, *corte d'appello*,
- fil-Lussemburgu, l-imħallef li jippresjedi fit-*tribunal d'arrondissement*,
- fl-Olanda, l-imħallef li jippresjedi fl- *arrondissementsrechtbank*,
- fin-Norveġja, *herredsrett* jew *byrett as namsrett*,
- fl-Awstrija, *Landesgericht* jew *Kreisgericht*,
- fil-Portugall, *Tribunal Judicial de Circulo*,

- fl-Isvizzera:

(a) dwar sentenzi li jkunu jordnaw li jsir il-hlas ta' xi somma flus, quddiem *juge de la mainlevée / Rechtsöffnungs - richter / giudice competente a pronunciare sul rigetto dell'opposizione*, fil-kuntest tal-proċedura regolata bl-Artikolu 80 u 81 tal- *loi federale sur la poursuite pour dettes et la faillite / Bundesgesetz über Schuldbetreibung und Konkurs / Legge federale sulla esecuzione e sul fallimento*,

(b) dwar sentenzi li jkunu jordnaw li jsir xi tweċċ minbarra l-hlas ta' xi somma flus, quddiem *juge cantonal d'exequatur competent / zuständiger kantonaler Vollstreckungsrichter / giudice cantonale competente a pronunciare l'exequatur*,

- fil-Finlandja, ulosotonhaltija / *overexekutor*

- fl-Isvezja, *Svea hovratt*,

- fir-Renju Unit:

(a) fl-Ingilterra u Wales, *High Court of Justice*, jew fil-każ ta' sentenza dwar manteniment, *Magistrates' Court* li titwassallu mis-*Secretary of State*;

(b) fl-Iskozja, *Court of Session*, jew fil-każ ta' sentenza dwar manteniment, *Sheriff Court* li titwassallu mis-*Secretary of State*;

(ċ) fl-Irlanda tan-Nord, *High Court of Justice*, u fil-każ ta' sentenza dwar manteniment, *Magistrates' Court* li titwassallu mis-*Secretary of State*;

2. Il-ġurisdizzjoni tal-qradi lokali ghandha tiġi stabbilita billi ssir referenza għall-post tad-domicilju tal-parti li tkun qed tintalab l-eżekuzzjoni kontriha. Jekk dik il-parti ma jkollhiex id-domicilju tagħha fl-iStat fejn tkun qed tintalab dik l-eżekuzzjoni, il-ġurisdizzjoni tiġi stabbilita billi ssir referenza għall-post ta' l-eżekuzzjoni.

Artikolu 33

Il-proċedura għall-ghemil ta' l-applikazzjoni għandha tkun regolata mil-liġi ta' l-iStat fejn tkun qed tintalab l-eżekuzzjoni.

L-applikant għandu jagħti indirizz għan-notifika tal-proċeduri fil-limiti ta' l-area ta' ġurisdizzjoni tal-qorti fejn ikun sar ir-rikors. Madankollu, jekk il-liġi ta' l-iStat fejn tkun qed tintalab l-eżekuzzjoni ma tkunx tipprovdi għall-ghoti ta' tali indirizz, ir-rikorrent għandu jahtar rappreżentant *ad litem*.

Id-dokumenti msemmija fl-Artikoli 46 u 47 għandhom jinthemżu mar-rikors.

Artikolu 34

Il-qorti fejn isir ir-rikors ghandha taghti d-deċiżjoni tagħha mingħajr ebda dewmien; dik il-parti li kontriha tintalab l-eżekuzzjoni ma jkollhiex jedd f'dan l-istadju tal-proċeduri li tagħmel xi sottomissjonijiet dwar ir-rikors.

Ir-rikors jista' jiġi miċhud biss għal xi wahda mir-raġunijiet speċifikati fl-Artikoli 27 u 28.

Sentenza barranija ma tista' taht ebda ċirkostanza tkun riveduta dwar is-sustanza tagħha.

Artikolu 35

L-uffiċjal tal-qorti idoneu għandu mingħajr dewmien jgħarraf lir-rikorrent bid-deċiżjoni mogħtija abbażi tar-rikors tiegħu skond il-proċedura stipulata bil-liġi ta' l-iStat fejn tintalab l-eżekuzzjoni.

Artikolu 36

Jekk l-eżekuzzjoni tiġi awtorizzata, il-parti li kontriha tintalab l-eżekuzzjoni tista' tappella kontra d-deċiżjoni fi żmien xahar min-notifika tagħha.

Jekk dik il-parti tkun domiciljata fi Stat Kontraenti ieħor li ma jkunx dak fejn tkun ingħatat id-deċiżjoni li tawtorizza l-eżekuzzjoni, iż-żmien għall-appell ikun ta' xahrejn u għandu jibda għaddej mid-data tan-notifika, sew jekk din issir lilu personalment sew jekk fir-residenza tiegħu. Dan iż-żmien ma jistax jittawwal minhabba fid-distanza.

Artikolu 37

1. Appell mid-deċiżjoni li tkun tawtorizza l-eżekuzzjoni għandu jsir skond ir-regoli li jirregolaw il-proċedura fi kwistjonijiet kontenzjużi, quddiem:

- fil-Belġju, *tribunal de premiere instance* or *rechtbank van eerste aanleg*,
- fid-Danimarka, *landsret*,
- fir-Repubblika Federali tal-Ġermanja, *Oberlandesgericht*,
- fil-Greċja, (test grieg),
- fi Spanja, *Audiencia Provincial*,
- fi Franza, *cour d'appel*,
- fl-Irlanda, *High Court*,

- fl-Islanda, *heradsdomari*,
- fl-Italja, *corte d'appello*,
- fil-Lussemburgu, *Cour superieure de justice* li toqghod bhala qorti ta' l-appelli ċivili,
- fl-Olanda, *arrondissementsrechtbank*,
- fin-Norveġja, *lagmannsrett*,
- fl-Awstrija, *Landesgericht* jew *Kreisgericht*,
- fil-Portugall, *Tribunal da Relacao*,
- fl-Isvizzera, *tribunal cantonal / Kantonsgericht / tribunale cantonale*,
- fil-Finlandja, *hovioikeus / hovratt*,
- fl-Isvetzja, *Svea hovratt*,
- fir-Renju Unit:

(a) fl-Ingilterra u Wales, *High Court of Justice*, jew fil-każ ta' sentenza ta' manteniment, *Magistrates' Court*,

(b) fl-Iskozja, *Court of Session*, jew fil-każ ta' sentenza ta' manteniment, *Sheriff Court*,

(ċ) fl-Irlanda tan-Nord, *High Court of Justice*, jew fil-każ ta' sentenza ta' manteniment, *Magistrates' Court*.

2. Is-sentenza li tinghata fl-appell tista' tkun biss ikkontestata permezz ta':

- fil-Belġju, Greċja, Spanja, Franza, Italja, Lussemburgu u Olanda, appell fil-kassazzjoni,
- fid-Danimarka, appell lil *hojesteret*, bil-permess tal-Ministru tal-gustizzja,
- fir-Repubblika Federali tal-Ġermanja, *Rechtsbeschwerde*,
- fl-Irlanda, *appeal on Court*,
- fl-Islanda, appell lil *Haestirettur*,
- fin-Norveġja, appell (*kjæremal* jew *anke*) lil *Hoyesteretts Kjæremalsutvalg* jew *Hoyesterett*,

- fl-Awstrija, fil-każ ta' appell, *Revisionsrekurs* u, fil-każ ta' proċeduri ta' opposizzjoni, *Berufung* bil-possibilità ta' Revizjoni,
- fil-Portugall, b'appell fuq punt ta' dritt,
- fl-Isvizzera, *recours de droit public devant le tribunal federal / staatsrechtliche Beschwerde beim Bundes gericht / ricorso di diritto pubblico davanti al tribunale federale*,
- fil-Finlandja, appell lil *korkein oikeus / hogsta domstolen*,
- fl-Isvezja, appell lil *hogsta domstolen*,
- fir-Renju Unit, b'appell uniku ulterjuri dwar punt ta' dritt.

Artikolu 38

Il-qorti li fiha jsir l-appell taht l-ewwel paragrafu ta' l-Artikolu 37 tista', meta jsirilha rikors mill-appellant, twaqqaf il-proċeduri jekk ikun sar appell ordinarju mis-sentenza fl-ewwel Stat jew inkella jekk iż-żmien għal dak l-appell ikun għadu ma skadiex; f'dan l-aħhar każ, il-qorti tista' tispeċifika iż-żmien li fih jista' jsir dak l-appell.

Meta s-sentenza tkun inghatat fl-Irlanda jew fir-Renju Unit, kull għamla ta' appell disponibbli fl-ewwel Stat għandha tiġi ttrattata bħala appell ordinarju għall-finijiet ta' l-ewwel paragrafu.

Il-qorti tista' wkoll tagħmel l-infurzar kondizzjonali fuq l-ghoti ta' dik is-sigurtà li tiġi minnha stabbilita.

Artikolu 39

Matul iż-żmien speċifikat għal appell konformi ma' l-Artikolu 36 u sakemm xi tali appell jkun ġie stabbilit, ma tista' tittiehed ebda miżura ta' infurzar hliet miżuri protettivi li jittiehdu dwar il-proprjetà tal-parti li kontriha jkun qed jintalab l-infurzar.

Id-deċiżjoni li tawtorizza l-infurzar għandha timplika wkoll s-setgħa li tipproċedi għal miżuri protettivi bħal dawk.

Artikolu 40

1. Jekk ir-rikors għall-infurzar jiġi miċhud, ir-rikorrent jista' jappella quddiem:

- fil-Belġju, *cour d'appel* jew *hof van beroep*,
- fid-Danimarka, *landsret*,

- fir-Repubblika Federali tal-Ġermanja, *Oberlandesgericht*,
- fil-Greċja, (test grieg)
- fi Spanja, *Audiencia Provincial*,
- fi Franza, *cour d'appel*,
- fl-Irlanda, *High Court*,
- fl-Islanda, *heradsdomari*,
- fl-Italja, *corte d'appello*,
- fil-Lussemburgu, *Cour superieure de justice* li joqghod bhala qorti ta' l-appelli ċivili,
- fl-Olanda, *gerechtshof*,
- fin-Norveġja, *lagmannsrett*,
- fl-Awstrija, *Landesgericht* jew *Kreisgericht*,
- fil-Portugall, *Tribunal da Relacao*,
- fl-Isvizzera, *tribunal cantonal / Kantonsgericht / tribunale cantonale*,
- fil-Finlandja, *hovioikeus / hovratt*,
- fl-Isvezja, *Svea hovratt*,
- fir-Renju Unit:

(a) fl-Ingilterra u Wales, *High Court of Justice*, jew fil-każ ta' sentenza dwar manteniment, *Magistrates' Court*,

(b) fl-Iskozja, *Court of Session*, jew fil-każ ta' sentenza dwar manteniment, *Sheriff Court*,

(ċ) fl-Irlanda tan-Nord, *High Court of Justice*, jew fil-każ ta' sentenza dwar manteniment, *Magistrates' Court*.

2. Il-parti li kontriha jintalab l-infurzar ghandha titharrek biex tidher quddiem il-qorti ta' l-appell. Jekk tonqos milli tidher, japplikaw id-disposizzjonijiet tat-tieni u t-tielet paragrafi ta' l-Artikolu 20 ukoll meta dik il-persuna ma jkollha domicilju f'ebda wicied mill-iStati Kontraenti.

Article 41

Sentenza li tinghata f'appell li jaqa' taht l-Artikolu 40 tista' biss tigi kkontestata permezz ta':

- fil-Belġju, Greċja, Spanja, Franza, Italja, Lussemburgu u Olanda, appell fil-kassazzjoni,
- fid-Danimarka, appell lil *hojesteret* bil-permess tal-Ministru tal-gustizzja,
- fir-Repubblika Federali tal-Ġermanja, *Rechtsbeschwerde*,
- fl-Irlanda, appell fuq punt ta' dritt lil *Supreme Court*,
- fl-Islanda, appell lil *Haestirettur*,
- fin-Norveġja, appell (*kjæremal* jew *anke*) lil *Hoyesteretts Kjæremalsutvalg* jew *Hoyesterett*,
- fl-Awstrija, *Revisionsrekurs*,
- fil-Portugall, appell fuq punt ta' dritt,
- fl-Isvizzra, *recurs de droit public devant le tribunal federal / staatsrechtliche Beschwerde beim Bundesgericht / ricorso di diritto pubblico davanti al tribunale federale*,
- fil-Finlandja, appell lil *korkein oikeus / hogsta domstolen*,
- fl-Isvetzja, appell lil *hogsta domstolen*,
- fir-Renju Unit, appell uniku ulterjuri fuq punt ta' dritt.

Artikolu 42

Meta sentenza barranija tkun inghatat għar-rigward ta' diversi kwistjonijiet u ma jkunx jista' jigi awtorizzat l-infurzar għalihom kollha, il-qorti għandha tawtorizza l-infurzar għal xi kwistjoni waħda jew iktar minnhom.

Rikorrent jista' jitlob l-infurzar parzjali ta' sentenza.

Artikolu 43

Sentenza barranija li tkun tordna xi hlas perjodiku bhala piena tkun tista' tigi esegwita fl-iStat fejn ikun qed jintalab l-infurzar biss jekk l-ammont tal-hlas ikun gie finalment stabbilit mill-qradi ta' l-ewwel Stat.

Artikolu 44

Rikorrent li jkun fl-cwwel Stat ibbenefika minn għajnuna legali shiha jew parzjali jew minn eżenzjoni mill-infieq jew l-ispejjeż, ikollu jedd, fil-proċeduri li hemm provdut dwarhom fl-Artikoli 32 sa 35, jibbenefika mill-aktar għajnuniet legali favorevoli jew mill-eżenzjoni l-iktar estensiva mill-infieq jew l-ispejjeż li jkun hemm provdut dwarhom bil-liġi ta' l-iStat indirizzat.

Madankollu, rikorrent li jitlob l-infurzar ta' deċiżjoni mogħtija minn awtorità amministrattiva fid-Danimarka jew fl-Islanda dwar ordni ta' manteniment jista', fl-iStat indirizzat, jitlob il-benefiċċji msemmija fl-cwwel paragrafu jekk huwa jippreżenta dikjarazzjoni rispettivament minghand il-Ministeru tal-ġustizzja tad-Danimarka jew il-Ministeru tal-ġustizzja ta' l-Islanda fis-sens li huwa jkun jadempixxi l-htigiet ekonomiċi biex jikkwalifika għall-ghoti ta' għajnuna legali shiha jew parzjali jew eżenzjoni mill-infieq jew l-ispejjeż.

Artikolu 45

Ebda sigurtà, *bond* jew depożitu, jissemma kif jissemma, m'għandhom jenhtiegu minn xi parti li fi Stat Kontraenti wieħed tapplika għall-infurzar ta' sentenza mogħtija fi Stat Kontraenti iehor minhabba f'li jkun ċittadin barrani jew li ma jkollux id-domiċilju tiegħu jew ma jkunx residenti fl-iStat fejn jintalab l-infurzar.

Sezzjoni 3 - Provvedimenti komuni

Artikolu 46

Parti li tkun qegħda tfittex għarfien jew li tkun qegħda tapplika għall-infurzar ta' sentenza għandha tipproduċi:

1. kopja tas-sentenza li tkun tissodisfa l-kondizzjonijiet meħtieġa biex tistabbilixxi l-awtentiċità tas-sentenza;
2. fil-każ ta' sentenza mogħtija fil-kontumaċja tal-parti, kopja oriġinali jew vera kopja ċertifikata tad-dokument li jstabbilixxi li l-parti li kienet kontumaċi kienet ġiet notifikata bid-dokument li permezz tiegħu jkunu inbdew il-proċeduri jew b'dokument ekwivalenti.

Artikolu 47

Parti li tapplika għall-infurzar għandha wkoll tipproduċi:

1. dokumenti li jstabbilixxu li, skond il-liġi ta' l-cwwel Stat, is-sentenza tkun eżegwibbli u li tkun ġiet notifikata;
2. meta jkun hekk meħtieġ, dokument li jkun juri li r-rikorrent ikun qed jirċievi għajnuna legali fl-cwwel Stat.

Artikolu 48

Jekk id-dokumenti speċifikati fl-Artikolu 46(2) u fl-Artikolu 47(2) ma jiġux prodotti, il-qorti tista' tispeċifika żmien għall-produzzjoni tagħhom, tista' taċċetta dokumenti ekwivalenti jew, jekk hekk tqis li jkollha biżżejjed tagħrif quddiemha, tiddispensa milli dawn jiġu prodotti.

Jekk il-qorti tkun hekk teħtieġ, għandha tiġi prodotta traduzzjoni tad-dokument; dik it-traduzzjoni għandha tiġi ċertifikata minn persuna awtorizzata għaldaqshekk f'xi wieħed mill-iStati Kontraenti.

Artikolu 49

M'għandha tenħtieġ ebda leġislazzjoni jew xi formalità simili ohra għar-rigward tad-dokumenti msemmija fl-Artikoli 46 jew 47 jew fit-tieni paragrafu ta' l-Artikolu 48, jew dwar xi dokument li jkun jahtar rappreżentant *ad litem*.

TITOLU IV

Istrumenti Awtentiċi u Arranġamenti fil-Qorti

Artikolu 50

Dokument li jkun ġie formalment abbozzat jew registrat bħala istrument awtentiku u li jkun eżekwibbli f'xi Stat Kontraenti wieħed għandu, fi Stat Kontraenti iħor, jiġi dikjarat bħala wieħed hemmhekk eżekwibbli, meta jsir rikors li jintgħamel skond il-proċeduri li hemm provdut dwar dan fl-Artikolu 31 u oħrajn li jiġu wara. Ir-rikors jista' jinċahad biss jekk l-infurzar ta' l-istrument ikun imur kontra il-*public policy* ta' l-iStat indirizzat.

L-istrument prodott għandu jkun jissodisfa l-kondizzjonijiet meħtieġa sabiex tiġi stabbilita l-awtentiċità tiegħu fl-ewwel Stat.

Il-provvedimenti tas-Sezzjoni 3 tat-Titolu III għandhom japplikaw kif dovut.

Artikolu 51

Arranġament li jkun ġie approvat mil-qorti filwaqt li jkunu qed isiru proċeduri u li jkun eżekwibbli fl-iStat fejn ikun sar għandu jkun eżekwibbli fl-iStat indirizzat taħt l-istess kondizzjonijiet bħal dawk ta' istrumenti awtentiki.

TITOLU V

Provvedimenti ġenerali

Artikolu 52

Sabiex jiġi stabbilit jekk parti tkunx domiciljata fl-iStat Kontraenti li l-qorti

tieghu jkunu qeghdin jiehdu konjizzjoni ta' xi kwistjoni, il-qorti ghandha tapplika l-ligi interna taghha.

Jekk parti ma tkunx domiciljata fl-iStat li l-qrati tieghu jkunu qeghdin jiehdu konjizzjoni tal-kwistjoni, ghaldaqstant, sabiex jigi stabbilit jekk il-parti tkunx domiciljata f'xi Stat Kontraenti iehor, il-qorti ghandha tapplika l-ligi ta' dak l-iStat.

Artikolu 53

Ghall-finijiet ta' din il-Konvenzjoni, is-sede ta' kumpannija jew ta' xi persuna guridika ohra jew ta' assoċjazzjoni ta' persuni naturali jew legali ghandha tigi stmata daqslikieku kienet id-domicilju relattiv. Madankollu, sabiex tigi stabbilita dik is-sede, il-qorti ghandha tapplika r-regoli taghha tad-dritt internazzjonali privat.

Sabiex jigi stabbilit jekk *trust* tkunx domiciljata fl-iStat Kontraenti li jkollu l-qrati tieghu qed jiehdu konjizzjoni tal-kwistjoni, il-qorti ghandha tapplika r-regoli taghha tad-dritt internazzjonali privat.

TITOLU VI

Provvedimenti Transnazzjonali

Artikolu 54

Id-disposizzjonijiet ta' din il-Konvenzjoni ghandhom biss japplikaw ghal proceduri legali mibdijin u ghal dokumenti formalment abbozzati jew registrati bhala istrumenti awtentiċi wara li din tidhol fis-schh fl-ewwel Stat u, meta jkun qed jintalab l-għarfien jew l-infurzar ta' sentenza jew ta' istrument awtentiku, fl-iStat indirizzat.

Madankollu, sentenzi li jinghataw wara d-data tad-dhul fis-schh ta' din il-konvenzjoni bejn l-ewwel Stat u l-iStat indirizzat fi proceduri mibdijin qabel dik id-data ghandhom ikunu rikonoxxuti u infurzati skond id-disposizzjonijiet tat- Titolu III jekk il-gurisdizzjoni kienet imsejsa fuq regoli li kienu jaqblu ma' dawk li hemm provdut dwarhom jew fit-Titolu II ta' din il-Konvenzjoni jew f'xi konvenzjoni maghmula bejn l-ewwel Stat u l-iStat indirizzat li kienet fis-schh meta kienu nb dew l-proceduri.

Jekk il-partijiet f'tilwima li tkun tolqot xi kuntratt ikunu ftehm bil-miktub qabel id-dhul fis-schh ta' din il-Konvenzjoni li l-kuntratt kellu jigi regolat bil-ligi ta' l-Irlanda jew ta' xi parti mir-Renju Unit, il-qrati ta' l-Irlanda jew ta' dik il-parti mir-Renju Unit ghandhom iżommu d-dritt li jeżerċitaw il-gurisdizzjoni fit-tilwima.

Artikolu 54A

Ghal perjodu ta' tliet snin minn meta din il-Konvenzjoni tidhol fis-schh għar-

rigward tad-Danimarka, Greċja, Irlanda, Islanda, Norveġja, Finlandja u Svezja, rispettivament, il-gurisdizzjoni fi kwistjonijiet marittimi għandha tiġi stabbilita f'dawn l-iStati mhux biss skond id-disposizzjonijiet tat-Titolu II, iżda wkoll skond id-disposizzjonijiet tal-paragrafi 1 sa 7 li ġejjin. Madankollu, mad-dhul fis-seħh tal-Konvenzjoni Internazzjonali li tirtigwarda l-arrest ta' bastimenti li jbahħru, iffirmata fi Brussell fl-10 ta' Mejju 1952, għal xi wieċed minn dawn l-iStati, dawn id-disposizzjonijiet għandhom itemmu milli jibqa' jkollhom seħh għal dak l-iStat.

1. Persuna li jkollha d-domicilju tagħha fi Stat Kontraenti tista' titharrek fil-qrati ta' xi wieċed mill-iStati hawn aktar qabel imsemmija għar-rigward ta' xi talba marittima jekk il-bastiment li t-talba tkun tirtigwardah jew kull bastiment ieħor li jkun proprjetà tagħha jkun ġie arrestat bi proċedimenti ġudizzjarji fi hdan it-territorju ta' l-aħhar Stat imsemmi sabiex tiġi assicurata t-talba, jew ikun seta' ġie hekk arrestat hemmhekk iżda jkun inghata rahan jew xi sigurtà oħra, u jew:

(a) il-pretendent ikun domiciljat f'dan l-aħhar Stat, jew

(b) il-pretensjoni tkun oriġinat f'dan l-aħhar Stat, jew

(c) il-pretensjoni tkun tolqot il-vjaġġ li matulu jkun sar jew seta' sar l-arrest, jew

(d) il-pretensjoni toriġina minn xi kollizzjoni jew minhabba f'xi ħsara kaġunata minn bastiment wieċed lill-ieħor jew lil xi merkanzija jew persuni abbord xi wieċed minn dawk il-bastimenti, jew bl-ċzekuzzjoni jew bin-nuqqas ta' ċzekuzzjoni ta' manuvra jew bin-nuqqas ta' osservanza tar-regolamenti, jew

(e) il-pretensjoni tkun għal salvataġġ, jew

(f) il-pretensjoni tkun għar-rigward ta' *mortgage* jew l-ipoteka tal-bastiment arrestat.

2. Pretendent jista' jarresta jew il-bastiment partikolari li lilu tkun tolqot il-pretensjoni marittima, jew kull bastiment ieħor li jkun proprjetà tal-persuna li kienet, filwaqt meta tkun oriġinat il-pretensjoni marittima, sid-il bastiment partikolari. Madankollu, huwa l-bastiment partikolari biss li lilu tirtigwarda l-pretensjoni marittima li jista' jiġi arrestat għar-rigward tal-pretensjonijiet marittimi stipulati f'(5)(o), (p) jew (q) ta' dan l-Artikolu.

3. Il-bastimenti għandhom jitqiesu li jkunu jappartjenu lill-istess sid meta l-ishma kollha fihom jkunu l-proprjetà ta' l-istess persuna jew persuni.

4. Meta fil-każ ta' *charter by demise* ta' bastiment ikun in-nolleġġatur wahdu responsabbli dwar xi pretensjoni marittima li tkun tirtigwarda lil dak il-bastiment, il-pretendent jista' jarresta lil dak il-bastiment jew kull bastiment ieħor li jkun il-proprjetà tan-nolleġġatur, iżda ebda bastiment ieħor li jkun il-proprjetà tas-sid ma jkun jista' jiġi arrestat minhabba f'dik il-pretensjoni. L-istess haġa

ghandha tapplika ghal kull każ fejn persuna li ma tkunx is-sid ta' bastiment tkun responsabbli ghal xi pretensjoni marittima li tkun tolqot lil dak il-bastiment.

5. Il-frazi "pretensjoni marittima" tfisser pretensjoni li tkun toriġina minn xi partita waħda jew iktar minn dawn li ġejjin:

(a) danni kaġunati minn xi bastiment jew f'kollizzjoni jew xort'ohra;

(b) telfien ta' hajja jew feriment personali kaġunati minn xi bastiment jew li jiġru f'dak li għandu x'jaqsam ma' l-attività abbord xi bastiment;

(ċ) is-salvataġġ;

(d) ftehim dwar l-użu jew il-kiri ta' kull bastiment sew permezz ta' *charterparty* jew xort'ohra;

(e) ftehim dwar il-ġarr ta' merkanzija fuq bastiment sew permezz ta' *charterparty* jew xort'ohra;

(f) it-telfien jew il-hsara li ssir lill-merkanzija inkluża l-valiġġa li tingarr fuq kull bastiment;

(g) avarija ġenerali;

(h) kambju marittimu fuq bastiment;

(i) irmonk;

(j) pilutaġġ;

(k) oġġetti u materjal kull fejn dawn jiġu provvisti lil bastiment għat-thaddim jew manutenzjoni tiegħu;

(l) kostruzzjoni, tiswija jew tghammir ta' xi bastiment jew spejjeż u hlasijiet għall-użu tal-moll;

(m) il-pagi tal-kaptani, uffiċjali jew ekwipaġġ;

(n) hruġ ta' flus li jsir mill-kaptan, inkluż kull hruġ li jsir minn spedituri, nolleġġaturi jew aġenti għal xi bastiment jew is-sid tiegħu;

(o) xi tilwima fuq il-jedd dwar xi bastiment jew il-proprjetà tiegħu;

(p) tilwim bejn ko-proprjetarji ta' xi bastiment dwar il-proprjetà, pussess, ingaġġ jew qliegh ta' dak il-bastiment;

(q) il-*mortgage* jew ipoteka ta' bastiment.

6. Fid-Danimarka, il-frazi "arrest" għandha titqies dwar il-pretensjonijiet

marittimi msemmija f'(5)(o) u (p) ta' dan l-Artikolu, bhala li tinkludi "*forbud*", meta dik tkun l-unika proċedura permessa dwar tali pretensjoni taht l-Artikoli 646 sa 653 tal-liġi dwar il-proċedura ċivili (*lov om rettens pleje*).

7. Fl-Islanda, il-frazi "arrest" ghandha titqies, dwar il-pretensjonijiet marittimi msemmija f'(5)(o) u (p) ta' dan l-Artikolu, bhala li tinkludi *logbann*, meta dik tkun l-unika proċedura permessa dwar tali pretensjoni taht il-Kapitolu III tal-liġi fuq l-arrest u l-inibizzjoni (*log um kyrrsetningu og logbann*).

TITOLU VII

Relazzjoni mal-Konvenzjoni ta' Brussell u ma' Konvenzjonijiet Ohra

Artikolu 54B

1. Din il-Konvenzjoni m'ghandhiex tkun ta' preġudizzju ghal kif l-iStati Membri tal-Komunitajiet Ewropej japplikaw il-Konvenzjoni dwar il-ġurisdizzjoni u l-Infurzar ta' Sentenzi fi Kwistjonijiet Ċivili u Kummerċjali, iffirmata fi Brussell fis-27 ta' Settembru 1968 u tal-Protokoll dwar l-interpretazzjoni ta' dik il-Konvenzjoni mill-Qorti tal-Ġustizzja, iffirmat f'Lussemburgu fit-3 ta' Ġunju 1971, kif emendat mill-Konvenzjonijiet ta' Aċċessjoni ghal dik il-Konvenzjoni u ghal dak il-Protokoll mill-iStati li aċċedew ghall-Komunitajiet Ewropej, liema Konvenzjonijiet kollha u Protokoll qeghdin hawn iktar 'il quddiem jissemmew bhala "il-Konvenzjoni ta' Brussell".

2. Madankollu, il-Konvenzjoni ghandha f'kull każ tiġi applikata:

(a) fi kwistjonijiet ta' ġurisdizzjoni, meta l-konvenut ikollu domicilju tiegħu fit-territorju ta' Stat Kontraenti li ma jkunx membru tal-Komunitajiet Ewropej, jew meta l-Artikoli 16 jew 17 ta' din il-Konvenzjoni jkunu jagħtu ġurisdizzjoni lill-qrati ta' dak l-iStat Kontraenti;

(b) dwar *lis pendens* jew azzjonijiet relatati kif hemm provdut fl-Artikoli 21 u 22, meta jinbdew proċeduri fi Stat Kontraenti li ma jkunx membru tal-Komunitajiet Ewropej u fi Stat Kontraenti li jkun membru tal-Komunitajiet Ewropej;

(ċ) fi kwistjonijiet ta' għarfien u infurzar, meta sew l-ewwel Stat sew l-iStat indirizzat ma jkunx membru tal-Komunitajiet Ewropej.

3. B'zieda mar-raġunijiet li hemm provdut dwarhom fit-Titolu III, l-għarfien jew l-infurzar jistgħu jiġu miċhuda jekk ir-raġuni tal-ġurisdizzjoni li fuqu tkun issejset is-sentenza jkun jiddiferixxi minn dak li jirrizulta minn din il-Konvenzjoni u l-għarfien jew l-infurzar jintalbu kontra xi parti li jkollha domicilju tagħha fi Stat Kontraenti li ma jkunx membru tal-Komunitajiet Ewropej, kemm-il darba s-sentenza tkun tista' xort'ohra tiġi rikonoxxuta jew infurzata taht xi tregija ta' dritt fl-iStat indirizzat.

Artikolu 55

Bla hsara ghad-disposizzjonijiet tat-tieni paragrafu ta' l-Artikolu 54 u ta' l-Artikolu 56, din il-Konvenzjoni ghandha, ghal dawk l-iStati li huma partijiet fiha, tisboq lil dawn il-konvenzjonijiet li ġejjin li jkunu saru bejn xi tnejn jew aktar minnhom:

- il-Konvenzjoni bejn il-Konfederazzjoni Elvetika u Franza fuq il-ġurisdizzjoni u l-infurzar ta' sentenzi fi kwistjonijiet ċivili, ffirmata f'Parigi fil-15 ta' Ġunju 1869,
- it-Trattat bejn il-Konfederazzjoni Elvetika u Spanja fuq l-infurzar reċiproku ta' sentenzi fi kwistjonijiet ċivili jew kummerċjali, ffirmata f'Madrid fid-19 ta' Novembru 1896,
- il-Konvenzjoni bejn il-Konfederazzjoni Elvetika u r-Reich Tedesk fuq ir-rikonoxximent u l-infurzar ta' sentenzi u deċiżjonijiet ta' l-arbitraġġ, ffirmata f'Berna fit-2 ta' Novembru 1929,
- il-Konvenzjoni bejn id-Danimarka, Finlandja, Islanda, Norveġja u Svezja fuq ir-rikonoxximent u l-infurzar ta' sentenzi, ffirmata f'Kopenhagen fis-16 ta' Marzu 1932,
- il-Konvenzjoni bejn il-Konfederazzjoni Elvetika u l-Italja fuq ir-rikonoxximent u l-infurzar ta' sentenzi, ffirmata f'Ruma fit-3 ta' Jannar 1933,
- il-Konvenzjoni bejn l-Isvezja u l-Konfederazzjoni Elvetika fuq ir-rikonoxximent u l-infurzar ta' sentenzi u deċiżjonijiet arbitrali ffirmata fi Stokkolma fil-15 ta' Jannar 1936,
- il-Konvenzjoni bejn ir-Renju tal-Belġju u l-Awstrija fuq ir-rikonoxximent u l-infurzar reċiproku ta' sentenzi u istrumenti awtentiċi li jirrigwardaw obligazzjonijiet ta' manteniment, iffirmata fi Vjenna fil-25 ta' Ottubru 1957,
- il-Konvenzjoni bejn il-Konfederazzjoni Elvetika u l-Belġju fuq ir-rikonoxximent u l-infurzar ta' sentenzi u deċiżjonijiet ta' l-arbitraġġ, iffirmata f'Berna fid-29 ta' April 1959,
- il-Konvenzjoni bejn ir-Repubblika Federali tal-Ġermanja u l-Awstrija fuq ir-rikonoxximent u l-infurzar reċiproku ta' sentenzi, arrangamenti u istrumenti awtentiċi fi kwistjonijiet ċivili u kummerċjali, ffirmata fi Vjenna fis-6 ta' Ġunju 1959,
- il-Konvenzjoni bejn ir-Renju tal-Belġju u l-Awstrija fuq ir-rikonoxximent u l-infurzar reċiproku ta' sentenzi, deċiżjonijiet arbitrali u istrumenti awtentiċi fi kwistjonijiet ċivili u kummerċjali, ffirmata fi Vjenna

° fis-16 ta' Ġunju 1959,

- il-Konvenzjoni bejn l-Awstrija u l-Konfederazzjoni Elvetika fuq ir-rikonoxximent u l-infurzar ta' sentenzi, ffirmata f' Berna fis-16 ta' Diċembru 1960,

- il-Konvenzjoni bejn in-Norveġja u r-Renju Unit li tipprovdi għar-rikonoxximent u l-infurzar reċiproku ta' sentenzi fi kwistjonijiet ċivili, ffirmata f' Londra fit-12 ta' Ġunju 1961,

- il-Konvenzjoni bejn ir-Renju Unit u l-Awstrija li tipprovdi għar-rikonoxximent u l-infurzar reċiproku ta' sentenzi fi kwistjonijiet ċivili u kummerċjali, ffirmata fi Vjenna fl-14 ta' Lulju 1961, bi Protokoll li jemenda ffirmat f' Londra fis-6 ta' Marzu 1970.

- il-Konvenzjoni bejn ir-Renju ta' l-Olanda u l-Awstrija fuq ir-rikonoxximent u l-infurzar reċiproku ta' sentenzi u ta' istrumenti awtentiċi fi kwistjonijiet ċivili u kummerċjali, ffirmata f' L-Aja fis-6 ta' Frar 1963,

- il-Konvenzjoni bejn Franza u l-Awstrija fuq ir-rikonoxximent u l-infurzar ta' sentenzi u istrumenti awtentiċi fi kwistjonijiet ċivili u kummerċjali, ffirmata fi Vjenna fil-15 ta' Lulju 1966.

- il-Konvenzjoni bejn il-Lussemburgu u l-Awstrija fuq ir-rikonoxximent u l-infurzar ta' sentenzi u istrumenti awtentiċi fi kwistjonijiet ċivili u kummerċjali, ffirmata f' Lussemburgu fid-29 ta' Lulju 1971.

- il-Konvenzjoni bejn l-Italja u l-Awstrija fuq ir-rikonoxximent u l-infurzar ta' sentenzi fi kwistjonijiet ċivili u kummerċjali, ta' arrangamenti ġudizzjarji u ta' istrumenti awtentiċi, ffirmata f' Ruma fis-16 ta' Novembru 1971.

- il-Konvenzjoni bejn in-Norveġja u r-Repubblika Federali tal-Ġermanja fuq ir-rikonoxximent u l-infurzar ta' sentenzi u dokumenti eżegwibbli, fi kwistjonijiet ċivili u kummerċjali, ffirmata f' Oslo fis-17 ta' Ġunju 1977.

- il-Konvenzjoni bejn id-Danimarka, Finlandja, Islanda, Norveġja u Svezja fuq ir-rikonoxximent u l-infurzar ta' sentenzi fi kwistjonijiet ċivili, ffirmata f' Kopenhagen fil-11 ta' Ottubru 1977.

- il-Konvenzjoni bejn l-Awstrija u Svezja fuq ir-rikonoxximent u l-infurzar ta' sentenzi fi kwistjonijiet ċivili, ffirmata fi Stokkolma fis-16 ta' Settembru 1982.

- il-Konvenzjoni bejn l-Awstrija u Spanja fuq ir-rikonoxximent u l-infurzar ta' sentenzi, arrangamenti u istrumenti awtentiċi eżegwibbli fi kwistjonijiet ċivili u kummerċjali, ffirmata fi Vjenna fis-17 ta' Frar 1984.

- il-Konvenzjoni bejn in-Norveġja u l-Awstrija fuq ir-rikonoxximent u l-infurzar ta' sentenzi fi kwistjonijiet ċivili, firmata fi Vjenna fil-21 ta' Mejju 1984, u

- il-Konvenzjoni bejn il-Finlandja u l-Awstrija fuq ir-rikonoxximent u l-infurzar ta' sentenzi fi kwistjonijiet ċivili, ffirmata fi Vjenna fis-17 ta' Novembru 1986.

Artikolu 56

It-Trattat u l-konvenzjonijiet imsemmija fl-Artikolu 55 għandhom jibqgħu ikollhom effett għar-rigward ta' dawk l-affarijiet li din il-Konvenzjoni ma tapplikax għalihom.

Dawn għandhom jibqgħu ikollhom effett għar-rigward ta' sentenzi li jingħataw u dokumenti formalment abbozzati jew registrati bhala istrumenti awtentiċi qabel id-dhul fis-schh ta' din il-Konvenzjoni.

Artikolu 57

1. Din il-konvenzjoni m'għandhiex tolgot lil xi konvenzjonijiet li tagħhom l-iStati Kontraenti huma jew għad ikunu partijiet u li għar-rigward ta' affarijiet partikolari, jirregolaw il-ġurisdizzjoni jew ir-rikonoxximent jew l-infurzar ta' sentenzi.

2. Din il-Konvenzjoni m'għandhiex tipprevjoni lil xi qorti ta' Stat Kontraenti li jkun parti f'xi konvenzjoni msemmija fl-ewwel paragrafu milli jassumi ġurisdizzjoni skond ma jkun hemm f'dik il-konvenzjoni, ukoll meta l-konvenut ikollu d-domiċilju tiegħu fi Stat Kontraenti li ma jkunx parti f'dik il-konvenzjoni. Il-qorti li tkun qed tiegħu konjizzjoni ta' l-azzjoni għandha, f'kull każ, tapplika l-Artikolu 20 ta' din il-Konvenzjoni.

3. Sentenzi li jingħataw fi Stat Kontraenti minn xi qorti b'eżerċizzju ta' ġurisdizzjoni provdut dwarha f'xi konvenzjoni msemmija fl-ewwel paragrafu għandhom jiġu rikonoxxuti u infurzati fl-iStati Kontraenti l-oħra skond it-Titolu III ta' din il-Konvenzjoni.

4. B'zieda mar-raġunijiet li hemm provdut dwarhom fit-Titolu III, ir-rikonoxximent jew l-infurzar jista' jiġi rifjutat jekk l-iStat indirizzat ma jkunx parti kontraenti għal xi konvenzjoni msemmija fl-ewwel paragrafu u l-persuna li kontriha jintalab ir-rikonoxximent jew l-infurzar ikollha d-domiċilju tagħha f'dak l-iStat, kemm-il darba s-sentenzi jistgħu xort'oħra jkunu rikonoxxuti jew infurzati taht xi regolament ġuridiku li jkun fl-iStat indirizzat.

5. Meta konvenzjoni msemmija fl-ewwel paragrafu li għaliha sew l-ewwel Stat sew l-iStat indirizzat ikunu partijiet tkun tistipula kondizzjonijiet għar-rikonoxximent u l-infurzar ta' sentenzi, dawk il-kondizzjonijiet għandhom ikunu appllikaw. F'kull każ, jistgħu jiġu appllikati l-provvedimenti ta' din il-Konvenzjoni

li jolqtu l-proċedura għar-rikonoxximent u l-infurzar ta' sentenzi.

Artikolu 58

(Xejn)

Artikolu 59

Din il-Konvenzjoni m'għandhiex tipprevjeni lil Stat Kontraenti milli jassumi f'konvenzjoni dwar ir-rikonoxximent u l-infurzar ta' sentenzi, obligazzjoni lejn Stat terz biex dan ma jirrikonoxxix is-sentenzi mogħtija fi Stati Kontraenti ohra kontra konvenuti li jkollhom id-domiċilju tagħhom jew li jkunu abitwalment residenti fit-tielet Stat fejn, fil-każijiet li hemm provdut dwarhom fl-Artikolu 4, is-sentenza tista' tkun biss imsejsa fuq motivazzjoni ta' ġurisdizzjoni speċifikata fit-tieni paragrafu ta' l-Artikolu 3.

Madankollu, Stat Kontraenti ma jistax jassumi obligazzjoni lejn Stat terz biex dan ma jirrikonoxxix sentenza mogħtija fi Stat Kontraenti iħor minn qorti li tibbaża l-ġurisdizzjoni tagħha fuq il-preżenza fi hdan dak l-iStat ta' proprjetà li tkun tappartjeni lill-konvenut, jew il-qbid mill-attur ta' proprjetà li tkun tinsab hemmhekk:

1. jekk l-azzjoni li tingieb biex tasserixxi jew tiddikjara jeddijiet proprjetarji jew possessorji f'dik il-proprjetà, tkun qed titlob li tikseb l-awtorità li tiddisponi minnha, jew tkun toriġina minn xi kwistjoni ohra li tkun tirrigwarda lil dik il-proprjetà, jew

2. jekk il-proprjetà tkun tikkostitwixxi l-garanzija għal dejn li jkun jifforma l-mertu ta' l-azzjoni.

TITOLU VIII

Disposizzjonijiet Finali

Artikolu 60

Dawn li ġejjin jistgħu jkunu partijiet f'din il-Konvenzjoni:

(a) Stati li, fil-waqt meta tinfetħ din il-Konvenzjoni għall-firma, jkunu membri tal-Komunitajiet Ewropej jew ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles (EFTA);

(b) Stati li, wara l-ftuħ ta' din il-Konvenzjoni għall-firma, isiru membri tal-Komunitajiet Ewropej jew ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles;

(ċ) Stati li jkunu mistiedna jaċċedu skond l-Artikolu 62 (1) (b).

Artikolu 61

1. Din il-Konvenzjoni ghandha tinfetah għall-firma mill-iStati membri tal-Komunitajiet Ewropej jew ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles.
2. Il-Konvenzjoni ghandha titqiegħed għar-ratifika mill-iStati firmatarji. L-istrumenti ta' ratifika għandhom jiġu depożitati għand il-Kunsill Federali Elvetiku.
3. Il-Konvenzjoni ghandha tidhol fis-seħh fl-ewwel jum tat-tielet xahar li jiġi minnufih wara d-data meta żewġ Stati, li minnhom wieħed ikun membru tal-Komunitajiet Ewropej u l-iehor membru ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles, jiddepożitaw l-istrumenti ta' ratifika tagħhom.
4. Il-Konvenzjoni ghandha tibda sseħh għar-rigward ta' kull Stat firmatarju ieħor fl-ewwel jum tat-tielet xahar li jiġi minnufih wara d-depożitu ta' l-istrument ta' ratifika tiegħu.

Artikolu 62

1. Wara li tidhol fis-seħh din il-Konvenzjoni tinfetah sabiex ikunu jistgħu jaċċedu għaliha:
 - (a) l-iStati msemmija fl-Artikolu 60 (b),
 - (b) Stati oħra li jkunu ġew mistiedna biex jaċċedu wara talba li ssir minn wieħed mill-iStati Kontraenti lill-iStat depożitarju. L-iStat depożitarju għandu jistieden lill-iStat involut sabiex dan jaċċedi biss jekk, wara li jkun ikkomunika l-kontenut kollu tal-komunikazzjonijiet li dan l-iStat ikun bi hsiebu jagħmel skond l-Artikolu 63, ikun kiseb il-ftehim unanimu ta' l-iStati firmatarji u ta' l-iStati Kontraenti msemmija fl-Artikolu 60 (a) u (b).
2. Jekk Stat li jkun qiegħed jaċċedi jkun jixtieq jissupplixxi dettalji għall-finijiet tal-Protokoll Nru. 1, għandhom isiru negozjati għal dak l-iskop. Għandha titlaqqa' konferenza bil-għan li fiha jsiru negozjati mill-Kunsill Federali Elvetiku.
3. Għar-rigward ta' Stat li jkun qiegħed jaċċedi, il-Konvenzjoni għandu jkollha seħh fl-ewwel jum tat-tielet xahar li jiġi minnufih wara d-depożitu ta' l-istrument ta' aċċessjoni tiegħu.
4. Madankollu, għar-rigward ta' Stat li jkun qed jaċċedi kif imsemmi fil-paragrafu 1 (a) jew (b), il-Konvenzjoni għandha sseħh biss f'relazżjonijiet bejn l-iStat li jkun qed jaċċedi u l-iStati Kontraenti li ma jkunu għamli ebda oġġezzjoni għall-aċċessjoni qabel l-ewwel jum tat-tielet xahar li jiġi minnufih wara d-depożitu ta' l-istrument ta' aċċessjoni.

Artikolu 63

Kull Stat li jkun qed jaċċedi għandu, meta jkun qiegħed jiddepożita l-istrument ta' aċċessjoni tiegħu, jikkomunika l-informazzjoni meħtieġa għall-applikazzjoni ta' l-Artikoli 3, 32, 37, 40, 41 u 55 ta' din il-Konvenzjoni u jissupplixxi, jekk ikunu meħtieġa, id-dettalji preskritti matul in-negozjati għall-finijiet tal-Protokoll Nru. 1.

Artikolu 64

1. Din il-Konvenzjoni hi konkluża għal perjodu inizjali ta' hames snin mid-data meta tidhol fis-seħħ skond l-Artikolu 61 (3), ukoll fil-każ ta' dawk l-iStati li jirratifikawha jew li jaċċedu għaliha wara dik id-data.

2. Fi tmiem il-perjodu inizjali ta' hames snin, il-Konvenzjoni għandha tiġi awtomatikament imġedda minn sena għal sena.

3. Ma' l-iskadenza tal-perjodu inizjali ta' hames snin, kull Stat Kontraenti jista', f'kull żmien, jiddenunzja l-Konvenzjoni billi jibgħat avviż ta' notifika lill-Kunsill Federali Elvetiku.

4. Id-denunzja għandha tibda sseħħ fi tmiem is-sena kalendarja li tiġi minnufih wara l-iskadenza ta' perjodu ta' sitt xhur mid-data meta lill-Kunsill Federali Elvetiku jasallu l-avviż ta' notifika ta' denunzja.

Artikolu 65

Dawn li ġejjin jinsabu annessi ma' din il-Konvenzjoni:

- Protokoll Nru. 1, dwar ċerti kwistjonijiet ta' ġurisdizzjoni, proċedura u infurzar,
- Protokoll Nru. 2, dwar l-interpretazzjoni uniformi tal-Konvenzjoni,
- Protokoll Nru. 3, dwar l-applikazzjoni ta' l-Artikolu 57.

Dawn il-Protokolli għandhom jiffurmaw parti integrali mill-Konvenzjoni.

Artikolu 66

Kull Stat Kontraenti jista' jitlob ir-reviżjoni ta' din il-Konvenzjoni. Għal dak l-ghan, il-Kunsill Federali Elvetiku għandu johroġ stedinet għal konferenza ta' revizjoni fi żmien sitt xhur mid-data tat-talba għal revizjoni.

Artikolu 67

Il-Kunsill Federali Elvetiku għandu javża lill-iStati rappreżentati fil-

Konferenza Diplomatika ta' Lugano u lill-iStati li jkunu aċċedew żmien wara għall-Konvenzjoni dwar:

- (a) id-depożitu ta' kull istrument ta' ratifika jew ta' aċċessjoni,
- (b) id-dati tad-dhul fis-schh ta' din il-Konvenzjoni għar-rigward ta' l-iStati Kontraenti,
- (ċ) kull denunzja riċevuta skond ma hemm fl-Artikolu 64,
- (d) kull dikjarazzjoni riċevuta skond ma hemm fl-Artikolu Ia ta' Protokoll Nru. 1,
- (e) kull dikjarazzjoni riċevuta skond ma hemm fl-Artikolu Ib ta' Protokoll Nru. 1,
- (f) kull dikjarazzjoni riċevuta skond ma hemm fl-Artikolu IV ta' Protokoll Nru. 1,
- (d) kull komunikazzjoni magħmula skond ma hemm fl-Artikolu VI ta' Protokoll Nru. 1.

Artikolu 68

Din il-Konvenzjoni, abbozzata f'original wieċed fl-ilsien Daniż, Olandiż, Inġliż, Finlandiż, Franċiż, Ġermaniż, Grieg, Islandiż, Irlandiż, Taljan, Norvegiż, Portugiż, Spanjol u Svediż, kull wieċed mill-erbatax il-test huwa daqsinsaw awtentiku, għandhom jiġu depożitati fl-arkivji tal-Kunsill Federali Elvetiku. Il-Kunsill Federali Elvetiku għandu jibgħat kopja ċertifikata lill-Gvern ta' kull Stat rappreżentat fil-Konferenza Diplomatika ta' Lugano u lill-Gvern ta' kull Stat li jkun qed jaċċedi.

**Protokoll Nru. 1 dwar
Ċerti Kwistjonijiet ta' Ġurisdizzjoni, Proċedura u Infurzar**

Il-Partijiet Kontraenti Għolja ftiehmu fuq dawn il-provvedimenti, li għandhom jiġu annessi mal-Konvenzjoni:

Artikolu 1

Kull persuna li jkollha domiċilju fil-Lussemburgu li titharreċ f'xi qorti ta' xi Stat Kontraenti iehor skond ma hemm fl-Artikolu 5 (1) tista' tirrifjuta li tissottometti ruhha għall-ġurisdizzjoni ta' dik il-qorti. Jekk il-konvenut ma jidherx quddiemha, il-qorti għandha tiddikjara minn jeddha li ma għandhiex ġurisdizzjoni.

Ftehim li jkun jikkonferixxi ġurisdizzjoni, fi hdan it-tifsira ta' l-Artikolu 17, ikun validu għar-rigward ta' persuna li jkollha d-domicilju tagħha fil-Lussemburgu biss jekk dik il-persuna tkun espressament u speċifikament hekk qablet.

Artikolu Ia

1. L-Isvizzera tiriserva d-dritt li tiddikjara, fil-waqt li tiddepożita l-istrument ta' ratifika tagħha, li sentenza mogħtija f'xi Stat Kontraenti iehor m'għandha la tiġi rikonoxxuta lanqas infurzata fl-Isvizzera jekk ikun hemm dawn il-kondizzjonijiet li ġejjin:

(a) il-ġurisdizzjoni tal-qorti li tkun tat is-sentenza tkun ibbażata biss fuq l-Artikolu 5 (1) ta' din il-Konvenzjoni, u

(b) il-konvenut kellu d-domicilju tiegħu fl-Isvizzera fil-waqt meta jkunu inbdew il-proċedimenti: għall-finijiet ta' dan l-Artikolu, kumpannija jew persuna ġuridika oħra titqies bħala li jkollha d-domicilju tagħha fl-Isvizzera jekk hija jkollha s-sede reġistrat tagħha u ċ-ċentru effettiv ta' attivitajiet fl-Isvizzera, u

(ċ) il-konvenut jagħmel oġġezzjoni dwar ir-rikonoxximent jew l-infurzar tas-sentenza fl-Isvizzera, sakemm huwa ma jkunx irrinunzja għall-benefiċċju tad-dikjarazzjoni prevista taht dan il-paragrafu.

2. Din ir-riserva m'għandhiex tapplika daqstant li fil-waqt li jkunu qed jintalbu r-rikonoxximent jew l-infurzar, tkun inġhatat deroga mill-Artikolu 59 tal-Kostituzzjoni Federali Elvetika. Il-Gvern Elvetiku għandu jwassal tali derogi lill-iStati firmatarji u lill-iStati li jkunu qegħdin jaċċedu.

3. Din ir-riserva għandha tteemm milli tibqa' ssehh fil-31 ta' Diċembru 1999.

Ir-riserva tista' tiġi rtirata f'kull waqt.

Artikolu Ib

Kull Stat Kontraenti jista', permezz ta' dikjarazzjoni li ssir fil-waqt ta' l-iffirmar jew tad-depożitu ta' l-istrument ta' ratifika jew ta' aċċessjoni tiegħu, tiriserva d-dritt, minkejja d-disposizzjonijiet ta' l-Artikolu 28, li ma tirikonoxxix u ma tinfurzax sentenzi mogħtija fl-iStati Kontraenti l-oħra jekk il-ġurisdizzjoni tal-qorti ta' l-ewwel Stat tkun imsejsa, skond ma hemm fl-Artikolu 16 (1) (b), esklużivament fuq id-domicilju tal-konvenut fl-ewwel Stat, u l-proprietà tkun tinsab fit-territorju ta' l-iStat li jkun għamel ir-riserva.

Artikolu II

Mingħajr preġudizzju għal provvedimenti iktar favorevoli ta' liġijiet nazzjonali, persuni li jkollhom id-domicilju tagħhom fi Stat Kontraenti li jkunu

qeghdin jiġu mixlija fil-qrati kriminali ta' xi Stat Kontraenti iehor li ma jkunux ċittadini tiegħu dwar xi reat li ma jkunx sar intenzjonalment, jistgħu jidhru biex jiddefenduhom persuni kwalifikati għaldaqshekk, ukoll jekk il-mixlija ma jkunux personalment preżenti.

Madankollu, il-qorti li tkun qed tiehu konjizzjoni tal-kwistjoni tista' tordna li persuna tidher fiżikament; jekk persuna tonqos milli tidher, sentenza mogħtija fl-azzjoni ċivili mingħajr ma l-persuna involuta kellha l-opportunità li tagħmel arrangamenti għad-difiża tagħha, tista' ma tiġix rikonoxxuta jew infurzata fl-iStati Kontraenti l-oħra.

Artikolu III

Fi proċedimenti għall-hruġ ta' ordni ta' infurzar, ma jista' jingabar ebda hlas, dazju jew dritt kalkulat b'riferenza għall-valur tal-kwistjoni involuta fl-iStat fejn ikun qed jintalab l-infurzar.

Artikolu IV

Dokumenti ġudizzjarji u estraġudizzjarji abbozzati fi Stat Kontraenti wiehed li jkollhom jiġu notifikati lil persuni fi Stat Kontraenti iehor għandhom jintbagħtu skond il-proċeduri stipulati f'kull konvenzjoni u ftehim konklużi bejn l-iStati Kontraenti.

Kemm-il darba l-iStat fejn ikollha ssir in-notifika ma joġġezzjonax permezz ta' dikjarazzjoni lill-Kunsill Federali Elvetiku, dawk id-dokumenti jistgħu wkoll jintbagħtu mill-uffiċjali pubbliċi idoneji ta' l-iStat fejn ikun ġie abbozzat id-dokument direttament lill-uffiċjali pubbliċi idoneji ta' l-iStat fejn il-persuna indirizzata tkun tista' tinsab. F'dan il-każ l-uffiċjal ta' l-ewwel Stat għandu jibgħat kopja tad-dokument lill-uffiċjal ta' l-iStat fejn issir l-applikazzjoni dwar min ikun kompetenti li jwassalha lill-persuna indirizzata. Id-dokument għandu jintbagħat bil-mod kif speċifikat bil-liġi ta' l-iStat fejn issir l-applikazzjoni. Dan it-twassil għandu jiġi reġistrat b'ċertifikat li jintbagħat direttament lill-uffiċjal ta' l-ewwel Stat.

Artikolu V

Il-ġurisdizzjoni speċifikata fl-Artikoli 6 (2) u 10 f'azzjonijiet dwar xi pleġġ jew garanzija jew f'xi proċedimenti oħra li jirrigwardaw terzi ma tistax issir riferenza għaliha fir-Repubblika Federali tal-Ġermanja, fi Spanja, fl-Awstrija u fl-Isvizzera. Kull persuna li jkollha d-domicilju tagħha fi Stat Kontraenti iehor tista' tiġi mharrka fil-qrati:

- tar-Repubblika Federali tal-Ġermanja, skond ma hemm fl-Artikoli 68, 72, 73 u 74 tal-kodiċi ta' proċedura ċivili (*Zivilprozessordnung*) li jirrigwardaw l-avviżi lil terzi;

- ta' Spanja, skond ma hemm fl-Artikolu 1482 tal-kodiċi ċivili;

- ta' l-Awstrija, skond ma hemm fl-Artikolu 21 tal-kodiċi ta' proċedura ċivili (*Zivilprozessordnung*) li jirrigwardaw l-avviżi lil terzi;

- ta' l-Isvizzera, skond ma hemm fid-disposizzjonijiet adatti, li jirrigwardaw avviżi lil terzi, tal-kodiċijiet kantonali ta' proċedura ċivili.

Sentenzi mogħtija fl-iStati Kontraenti l-oħra bis-saħħa ta' l-Artikolu 6 (2) jew l-Artikolu 10 għandhom jiġu rikonossuti u infurzati fir-Repubblika Federali tal-Ġermanja, fi Spanja, fl-Awstrija u fl-Isvizzera skond it-Titolu III. Kull effett li sentenzi mogħtija f'dawn l-iStati jista' jkollhom fuq terzi bl-applikazzjoni tal-provvedimenti li hemm fil-paragrafu preċedenti għandhom ukoll ikunu rikonossuti fl-iStati Kontraenti l-oħra.

Artikolu Va

Fi kwistjonijiet li jirrigwardaw il-manteniment, il-frażi 'qorti' tinkludi lill-awtoritajiet amministrattivi tad-Danimarka, Islanda u Norveġja.

Fi kwistjonijiet ċivili u kummerċjali, il-frażi 'qorti' tinkludi lil *ulosotonhaltija / overexekutor* tal-Finlandja.

Artikolu Vb

Fi proċeduri li jkunu jinvolvu xi tilwima bejn il-kaptan u xi membru ta' l-ekwipaġġ ta' bastiment li jbahhar li jkun reġistrat fid-Danimarka, fil-Greċja, fl-Irlanda, fl-Islanda, fin-Norveġja, fil-Portugall jew fl-Isvizzja dwar ir-rimunerazzjoni jew xi kondizzjonijiet oħra tas-servizz, qorti fi Stat Kontraenti għandha tistabbilixxi jekk l-uffiċjal diplomatiku jew konsulari responsabbli għall-bastiment ikunx ġie notifikat bit-tilwima. Il-qorti għandha twaqqaf il-proċedimenti sakemm huwa ma jkunx ġie notifikat. Il-qorti għandha minn jeddha tiddeklina l-ġurisdizzjoni jekk l-uffiċjal, wara li jkun ġie debitament notifikat, ikun eżerċita s-setgħat lilo mogħtija fil-kwistjoni b'konvenzjoni konsulari, jew fin-nuqqas ta' tali konvenzjoni jkun għamel, fiż-żmien permess, xi oġġezzjoni għall-eżerċizzju ta' dik il-ġurisdizzjoni.

Artikolu Vc

(Xcjn)

Artikolu Vd

Mingħajr preġudizzju għall-ġurisdizzjoni tal-Uffiċċju tal-Privattivi Ewropej taħt il-Konvenzjoni dwar l-għoti ta' privattivi Ewropej, iffirmata fi Munich fil-5 ta' Ottubru 1973, il-qradi ta' kull Stat Kontraenti għandu jkollhom ġurisdizzjoni esklużiva, bla ma jitqies id-domicilju, fi proċedimenti li jirrigwardaw ir-reġistrazzjoni jew il-validità ta' xi privattiva Ewropea mogħtija għal dak l-iStat li ma tkunx privattiva tal-Komunità bis-saħħa tal-provvediment ta' l-Artikolu 86 tal-Konvenzjoni għall-privattiva Ewropea għas-suq komuni, iffirmata f'Lussemburgu

fil-15 ta' Diċembru 1975.

Artikolu VI

L-iStati Kontraenti għandhom jikkomunikaw lill-Kunsill Federali Elvetiku it-test ta' kull provvediment tal-liġijiet tagħhom li jkunu jemendaw sew dawk il-provvedimenti tal-liġijiet tagħhom imsemmija fil-Konvenzjoni sew il-listi ta' qrati speċifikati fis-Sczzjoni 2 tat-Titolu III.

**Protokoll Nru. 2 dwar
l-Interpretazzjoni Uniformi tal-Konvenzjoni**

Preambolu

- Il-Partijiet Kontraenti Għolja,
- Filwaqt li jqisu l-Artikolu 65 ta' din il-Konvenzjoni,
- Filwaqt li jikkunsidraw ir-rabta sostanzjali bejn din il-Konvenzjoni u l-Konvenzjoni ta' Brussell,
- Filwaqt li jikkunsidraw li l-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej bis-sahha tal-Protokoll tat-3 ta' Ġunju 1971 għandha ġurisdizzjoni li tiddeċiedi fuq l-interpretazzjoni tal-provvedimenti tal-Konvenzjoni ta' Brussell,
- Għaliex huma konsapevoli tad-deċiżjonijiet mogħtija mill-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej fuq l-interpretazzjoni tal-Konvenzjoni ta' Brussell sal-waqt tal-firma ta' din il-Konvenzjoni,
- Filwaqt li jikkunsidraw li n-negozjati li wasslu għall-għemil tal-Konvenzjoni kienu msejsa fuq il-Konvenzjoni ta' Brussell fil-kuntest ta' dawn id-deċiżjonijiet;
- Filwaqt li jixtiequ jipprevjenu, b'kull rispettt għall-indipendenza tal-qrati, interpretazzjonijiet diverġenti u li jaslu għal interpretazzjoni kemm jista' jkun uniformi tal-provvedimenti tal-Konvenzjoni, u ta' dawn il-provvedimenti u dawk tal-Konvenzjoni ta' Brussell li huma sostanzjalment riprodotti f'din il-Konvenzjoni,

Ftichmu kif ġej:

Artikolu I

Il-qrati ta' kull Stat Kontraenti għandhom, meta jkunu qed japplikaw u jinterpretaw il-provvedimenti tal-Konvenzjoni, jagħtu kas kif dovut tal-prinċipji

stipulati b'deċiżjonijiet rilevanti mogħtija minn qrati ta' l-iStati Kontraenti l-oħra dwar il-provvedimenti ta' din il-Konvenzjoni.

Artikolu 2

1. Il-Partijiet Kontraenti jaqblu li jistabbilixxu sistema ta' skambju ta' informazzjoni li tirrigwarda sentenzi mogħtijin bis-sahha ta' din il-Konvenzjoni kif ukoll sentenzi rilevanti taht il-Konvenzjoni ta' Brussell. Din is-sistema tikkomprendi:

- it-trasmissjoni lil korp ċentrali mill-awtoritajiet kompetenti ta' sentenzi mogħtijin minn qrati ta' istanza finali u mill-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej, kif ukoll ta' sentenzi ta' ċertu importanza partikolari li jkunu dahlu f'ġudikat u li jkunu nghataw bis-sahha ta' din il-Konvenzjoni jew tal-Konvenzjoni ta' Brussell;

- il-klassifikazzjoni ta' dawn is-sentenzi mill-korp ċentrali inkluż, skond kemm ikun meħtieġ, l-abbozzar u l-pubblikazzjoni ta' traduzzjonijiet u sommarji;

- il-komunikazzjoni mill-korp ċentrali tad-dokumenti rilevanti lill-awtoritajiet nazzjonali kompetenti ta' kull Stat firmatarju u li jkun qed jaċċedi għall-Konvenzjoni u l-Kummissjoni tal-Komunitajiet Ewropej.

2. Il-korp ċentrali hu r-Registatur tal-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej.

Artikolu 3

1. Għandu jitwaqqaf Kumitat permanenti għall-finijiet ta' dan il-Protokoll.

2. Il-Kumitat ikun magħmul minn rappreżentanti li jinhatru minn kull Stat firmatarju u li jkun qed jaċċedi.

3. Il-Komunitajiet Ewropej (Kummissjoni, Qorti tal-Ġustizzja, u Segretarjat Ġenerali tal-Kunsill) u l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles, jistgħu jattendu għal-laqgħa bhala osservaturi.

Artikolu 4

1. Fuq it-talba ta' Parti Kontraenti, id-depożitarju tal-Konvenzjoni għandu jlaqqa' seduti tal-Kumitat bil-għan li jiskambja fehmiet dwar it-thaddim tal-Konvenzjoni u b'mod partikolari dwar

- l-iżvilupp tal-ġurisprudenza kif din tkun komunikata taht l-ewwel paragrafu l-ewwel subinċiż ta' l-Artikolu 2,

- l-applikazzjoni ta' l-Artikolu 57 tal-Konvenzjoni.

2. Il-Kumitat, fil-kuntest ta' dawn l-iskambji, jista' wkoll jeżamina kemm isir sew jekk tinbeda fuq xi sugġett partikolari reviżjoni tal-Konvenzjoni u tagħmel rakkomandazzjonijiet dwar dan.

**Protokoll Nru. 3 dwar
l-Applikazzjoni ta' l-Artikolu 57**

Il-Partijiet Kontraenti Gholja f'iehem kif ġej:

1. Għall-finijiet tal-Konvenzjoni, dawk il-provvedimenti li, għar-rigward ta' kwistjonijiet partikolari, jirregolaw il-ġurisdizzjoni jew ir-rikonossiment jew l-infurzar ta' sentenzi u li jkunu jew se jkunu kontenuti fl-atti ta' l-Istituzzjonijiet tal-Komunitajiet Ewropej għandhom jiġu ttrattati bl-istess mod bhalma jkunu l-konvenzjonijiet imsemmija fil-paragrafu 1 ta' l-Artikolu 57.

2. Jekk xi Stat Kontraenti wiehed ikun tal-fehma li provvediment kontenut f'xi att ta' l-Istituzzjonijiet tal-Komunitajiet Ewropej ma jkunx kompatibbli mal-Konvenzjoni, l-iStati Kontraenti għandhom jikkonsidraw kemm jista' jkun malajr li jemendaw il-Konvenzjoni skond ma hemm fl-Artikolu 66, minghajr preġudizzju għall-proċedura stabbilita bil-Protokoll Nru. 2.

Dikjarazzjoni mir-Rappreżentanti tal-Gvernijiet ta' l-iStati Firmatarji għall-Konvenzjoni ta' Lugano li huma Membri tal-Komunitajiet Ewropej fuq il-Protokoll Nru. 3 dwar l-Applikazzjoni ta' l-Artikolu 57 tal-Konvenzjoni

Mal-firma tal-Konvenzjoni dwar il-ġurisdizzjoni u l-infurzar ta' sentenzi fi kwistjonijiet ċivili u kummerċjali magħmula f'Lugano fis-16 ta' Settembru 1988,

Ir-Rappreżentanti tal-Gvernijiet ta' l-istati membri tal-Komunitajiet Ewropej,

Filwaqt li jqisu l-obbligazzjonijiet li huma dahlu fihom għar-rigward ta' l-istati membri ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles,

Herqanin li ma jippreġudikawx l-unità tas-sistema legali mwaqqfa bil-Konvenzjoni,

Jiddikjaraw li se jiehdu l-miżuri kollha li jistgħu jiehdu biex meta jkunu qegħdin jiġu abbozzati l-atti tal-Komunità msemmija fil-paragrafu 1 tal-Protokoll Nru. 2 dwar l-applikazzjoni ta' l-Artikolu 57, jiżguraw li jkun hemm rispett għar-regoli tal-ġurisdizzjoni u rikonossiment u infurzar ta' sentenzi stabbiliti bil-Konvenzjoni.

Dikjarazzjoni mir-Rappreżentanti tal-Gvernijiet ta' l-iStati Firmatarji għall-Konvenzjoni ta' Lugano li huma Membri tal-Komunitajiet Ewropej

Mal-firma tal-Konvenzjoni dwar il-ġurisdizzjoni u l-infurzar ta' sentenzi fi kwistjonijiet ċivili u kummerċjali magħmula f' Lugano fis-16 ta' Settembru 1988

Ir-Rappreżentanti tal-Gvernijiet ta' l-istati membri tal-Komunitajiet Ewropej

Jiddikjaraw li jqisu bhala adatta li l-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej, meta din tkun qed tinterpreta il-Konvenzjoni ta' Brussell, għandha taghti kas sew għad-deċiżjonijiet li jkunu jinsabu fil-ġurisprudenza tal-Konvenzjoni ta' Lugano.

Dikjarazzjoni mir-Rappreżentanti tal-Gvernijiet ta' l-iStati Firmatarji tal-Konvenzjoni ta' Lugano li huma Membri tal-Assoċjazzjoni Ewropea għall-Kummerċ Hieles

Mal-firma tal-Konvenzjoni dwar il-ġurisdizzjoni u l-infurzar ta' sentenzi fi kwistjonijiet ċivili u kummerċjali magħmula f' Lugano fis-16 ta' Settembru 1988,

Ir-Rappreżentanti tal-Gvernijiet ta' l-istati membri ta' l-Assoċjazzjoni Ewropea għall-Kummerċ Hieles

Jiddikjaraw li huma jqisu bhala haġa sew li meta l-qrati tagħhom jinterpretaw il-Konvenzjoni ta' Lugano, dawn għandhom jagħtu kas sew tad-deċiżjonijiet kontenuti fil-ġurisprudenza tal-Qorti tal-Ġustizzja tal-Komunitajiet Ewropej u tal-qrati ta' l-iStati Membri tal-Komunitajiet Ewropej għar-rigward tal-provvedimenti tal-Konvenzjoni ta' Brussel li huma sostanzjalment riprodotti fil-Konvenzjoni ta' Lugano.

IT-TIENI SKEDA

Dikjarazzjonijiet u Opposizzjonijiet

(Artikoli 5, 8, 21 u 42)

1. Il-Gvern ta' Malta jiddikjara, skond ma hemm fl-Artikolu 8 tal-Konvenzjoni dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti Ġudizzjarji u Estraġudizzjarji f'Affarijiet Ċivili jew Kummerċjali (L-Aja, 1965) li jinsab oppost ghan-notifika ta' dokumenti fit-territorju ta' Malta li jsir direttament mill-aġenti diplomatiċi jew konsulari ta' xi Stat Kontraenti ieħor, skond l-ewwel paragrafu ta' l-imsemmi Artikolu 8, hliet meta jkun iċ-ċittadin ta' l-iStat Kontraenti li jagħmel dik in-notifika.

2. Il-Gvern ta' Malta jiddikjara, skond ma hemm fl-Artikolu 10 tal-Konvenzjoni dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti Ġudizzjarji u Estraġudizzjarji f'Affarijiet Ċivili jew Kummerċjali (L-Aja, 1965) li jinsab oppost għall-użu mill-iStati Kontraenti l-oħra ta' xi wiehed mill-metodi ta' trasmissjoni u notifika ta' dokumenti msemmija fl-imsemmi Artikolu 10 fit-territorju tiegħu.

IT-TIELET SKEDA

(Artikoli 10, 12 u 13)

Taqsim A

**TALBA GHAN-NOTIFIKA BARRA MILL-PAJJIŻ TA' DOKUMENTI
ĠUDIZZJARJI JEW ESTRAĠUDIZZJARJI LI JKUNU ORIĠINAW BARRA
MINN MALTA**

**Konvenzjoni dwar in-Notifika Barra mill-Pajjiż ta' Dokumenti Ġudizzjarji u
Estraġudizzjarji f'Affarijiet Ċivili jew Kummerċjali, li kienet iffirmata fl-Aja
fil-15 ta' Novembru, 1965.**

Identità u indirizz ta' l-applikant

Indirizz ta' l-awtorità li tirċievi

L-applikant hawn taht iffirmit ghandu l-unur jittrasmetti żewġ kopji tad-dokumenti hawn taht clenkati u, skond ma hemm fl-Artikolu 5 tal-Konvenzjoni fuq imsemmija, qiegħed jitlob in-notifika kemm jista' jkun malajr ta' kopja waħda minnhom lill-persuna indirizzata, jiġifieri

(identità u indirizz)

.....
.....

(a) skond id-disposizzjonijiet tas-subparagrafu (a) ta' l-ewwel paragrafu ta' l-Artikolu 5 tal-Konvenzjoni*.

(b) skond il-metodu partikolari li ġej (subparagrafu (b) ta' l-ewwel paragrafu ta' l-Artikolu 5)*:

.....
.....

(ċ) bil-kunsinna lill-persuna indirizzata, jekk taċċetta volontarjament (it-tieni paragrafu ta' l-Artikolu 5)*.

L-awtorità hija mitluba li tirritorna jew li tara li jiġu ritornati lill-applikant kopja tad-dokumenti - u ta' l-annessi* - flimkien ma' ċertifikat li jinsab fuq wara.

Elenku ta' dokumenti

.....

.....

.....

.....

.....

.....

.....

.....

.....

Maghmula fi....., illum.....

Firma u/jew timbru.

* Hassar jekk mhux mehtieg.

Taqsimha B

**TALBA GHAL NOTIFIKA BARRA L-PAJJIŻ TA' DOKUMENTI
ĠUDIZZJARJI JEW ESTRAĠUDIZZJARJI LI JORIĠINAW F'MALTA**

**Talba għal Notifika Barra l-Pajjiż ta' Dokumenti Ġudizzjarji jew
Estraġudizzjarji**

Identità u indirizz ta' l-applikant

Indirizz ta' l-awtorità li tirċievi

--	--

L-applikant sottoskritt għandu l-unur li jittrasmetti żewġ kopji tad-dokumenti hawn taht elenkati u, skond ma hemm fl-Artikolu 12 ta' l-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali, qiegħed jitlob li ssir in-notifika kemm jista' jkun malajr ta' kopja waħda minnhom lill-persuna indirizzata, jiġifieri

(identità u indirizz)

.....
.....

- (a) skond id-disposizzjonijiet ta' l-artikolu 12 ta' l-Att *.
- (b) skond dan il-metodu partikolari li ġej *.

.....
.....

L-awtorità hi mitluba li tirritorna jew li tara li tiġi ritornata lill-applikant kopja tad-dokumenti - u ta' l-annessi* - flimkien ma' ċertifikat li jinsab fuq wara.

Elenku ta' dokumenti

.....
.....

Magħmul fi, illum

Firma u/jew timbru

* Hassar jekk mhux mehtieg.

(Jekk it-talba u d-dokumenti mhumiex fl-ilsien Inġliż, għandhom jintehmzu magħhom żewġ traduzzjonijiet ċertifikati tagħhom fl-ilsien Inġliż.)

Fuq wara tat-talba

ĊERTIFIKAT

(Artikolu 13)

L-awtorità sottoskritta għandha l-unur li tiċċertifika, skond l-artikolu 13 ta' l-Att,

(1) li d-dokument ikun ġie notifikat*

- illum (data)

.....

- fi (post, triq, numru)

.....

.....

- f'wied minn dawn il-metodi li ġejjin:

(a) skond id-disposizzjonijiet ta' l-artikolu 12 ta' l-Att*.

(b) skond dan il-metodu partikolari li ġejj*:

.....

.....

Id-dokumenti msemmija fit-talba ġew ikkunsinnati lil:

- (identità u deskrizzjoni ta' persuna)

.....

.....

- qrubija jew relazzjoni ma' l-indirizzat (familja, negozju jew xort'ohra):

.....

.....

A 670

(2) li d-dokument ma ġie notifkat, minhabba f'dawn il-fatti li ġejjin*.

.....
.....
.....

Skond ma hemm fl-artikolu 14 ta' l-Att, l-applikant huwa mitlub iħallas jew jirrifondi l-ispejjeż u l-hlasijiet imniżżlin fid-dikjarazzjoni hawn annessa.

Annessi

Dokumenti ritornati:

.....
.....
.....

F'każijiet adatti, id-dokumenti li juru li saret in-notifika:

.....
.....

Magħmul fi..... illum

Firma u/jew timbru

* Hassar jekk mhux meħtieġ.

Sommarju tad-Dokument li għandu jiġi Notifikat

(Artikolu 12(2))

Isem u indirizz ta' l-awtorità/uffiċjal/persuna li jagħmlu t-talba:

.....
.....

Partikolaritajiet tal-partijiet*:

.....
.....

Dokument Ġudizzjarju**

Xorta u skop tad-dokument:

.....
.....

Xorta u skop tal-proċedimenti u, meta jkun hekk meħtieġ, l-ammont kontestat:

.....
.....

Data meta u post fejn persuna għandha tidher**:

.....
.....

Il-Qorti li tkun tat is-sentenza**:

.....
.....

Data tas-sentenza**:

.....

Termini ta' żmien dikjarati fid-dokument**:

.....

Dokument Estraġudizzjarju**

Xorta u skop tad-dokument:

.....
.....

Termini ta' żmien dikjarati fid-dokument**:

.....
.....

* Jekk ikun hekk meħtieġ, l-identità u l-indirizz tal-persuna interessata fit-twassil tad-dokument.

** Hassar jekk mhux meħtieġ.

IR-RABA' SKEDA

(Artikoli 22 u 42)

Riserva

Il-Gvern ta' Malta jiddikjara, skond ma hemm fl-Artikolu 28 tal-Konvenzjoni dwar l-Aċċess Internazzjonali għall-Ġustizzja (L-Aja, 1980), li jeskludi l-applikazzjoni ta' l-Artikolu 1 ta' dik il-Konvenzjoni fil-każ ta' persuni li ma jkunux ċittadini ta' xi Stat Kontraenti iżda li jkollhom ir-residenza tas-soltu tagħhom fi Stat Kontraenti li ma jkunx Malta jew li qabel kellhom ir-residenza tas-soltu tagħhom f'Malta, jekk ma jkun hemm ebda reċiproċità ta' trattament bejn Malta u l-iStat li tiegħu l-applikanti għall-ghajjnuna legali jkunu ċittadini.

IL-HAMES SKEDA

(Artikolu 44)

Emendi konsegwenzjali

- | L-Ewwel Kolonna | It-Tieni Kolonna |
|--|---|
| 1. Regoli tal-Qorti maghmulin bin-Not. tal-Gvern 381 ta' l-1911 konsolidati f' L.S.12.02 | Ir-Regola 3 u l-Formola 3 Il-Iskeda tar-Regoli ghandhom jithassru. |
| 2. Regoli tal-Qorti maghmulin bin-Not. tal-Gvern 423 ta' l-1930 - konsolidati f' L.S.12.02 | Minflok ir-regola 5 ghandha tidhol din ir-regola li ġeġja:

"5. Meta ssir talba għall-applikazzjoni ta' xi metodu speċjali ta' proċedura, il-Qorti ta' l-Appell ghandha tordna li dan il-metodu ta' proċedura ghandu jiġi segwit, kemm-il darba dan ma jkunx inkompatibbli mal-liġi interna ta' l-iStat ta' eskuzzjoni jew ikun impossibbli li jitwettaq minhabba l-il-prattika u proċedura interna jew minhabba l' "diffikultajiet prattiċi". |
| 3. Kodiċi ta' Organizzazzjoni u Proċedura Ċivili - Kap. 12. | (a) Il-artikolu 742(2), minflok il-kliem "Il-ġurisdizzjoni tal-qrati", ghandhom jidhlu l-kliem "Salv kif xort'ohra espressament provdut bil-liġi, u b' mod partikolari bit-Taqsim V ta' l-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali, il-ġurisdizzjoni tal-qrati";

(b) Il-artikolu 743(1), minflok il-kliem "Jaqa' wkoll taht il-ġurisdizzjoni", ghandhom jidhlu l-kliem "Bla hsara għad-disposizzjonijiet tas-subartikolu (3), jaqa' wkoll taht il-ġurisdizzjoni";

(ċ) Il-artikolu 743, minnufih wara s-subartikolu (2) tiegħu, ghandu jidhol dan is-subartikolu ġdid li ġeġ:

" (3) F' dawk il-każijiet regolati bit-Taqsim V ta' l-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali, id-disposizzjonijiet ta' dak l-Att ghandhom ikunu applikabbli"; u

(d) l-artikolu 826 ghandu jithassar u minflok jidhol dan l-artikolu ġdid li ġeġ:
"826. Salv id-disposizzjonijiet ta' l-Att dwar l-Eskuzzjoni Reċiproka ta' Sentenzi ta' Tribunali Ingliżi, ta' l-Att dwar is-Sekwestru u l-Kustodja tal-Minuri, u l-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali, u ta' kull liġi ohra speċjali li tipprovd i b' mod speċjali għal sentenzi partikolari li jinharġu minn ġurisdizzjonijiet partikolari, sentenza mogħtija minn qorti kompetenti barra minn Malta u li tkun tikkostitwixxi <i>res judicata</i> tista' tiġi infurzata minn qorti kompetenti f' Malta, bl-istess mod bħalma jkun sentenzi mogħtija f' Malta, wara li ssir ċitazzjoni li jkun fiha talba li jiġi ordnat l-infurzar ta' dik is-sentenza." |

4. Att dwar l-Affarijiet tal-Konsumatur - Kap. 378.
- (a) Fl-artikolu 16(1), minflok il-kliem "rispettivament.", ghandhom jidhlu l-kliem "rispettivament, b'gurdizzjoni li jisimghu u jiddeċiedu talbiet skond id-disposizzjonijiet rilevanti tat-Taqsima V ta' l-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali, id-disposizzjonijiet ta' l-artikolu 742(1) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, sakemm din tkun tapplika, u dawn id-disposizzjonijiet li ġejjin ta' dan l-artikolu.": u
- (b) minnufih wara s-subartikolu (5) ta' l-imsemmi artikolu 16, ghandhom jiddeċiedu dawn is-subartikoli godda li ġejjin:
- "(6) Meta l-operazzjoni li għaliha tkun tirreċeri t-talba ssir bejn persuna li jkollha d-domicilju tagħha f'Malta u persuna li jkollha d-domicilju tagħha barra minn Malta, u l-gurdizzjoni tat-tribunali rispettivi f'Malta u Għawdex ma tkunx tista' tiġi aċċertata skond is-subartikoli preċedenti ta' dan l-artikolu, il-gurdizzjoni għandha tvesti l-it-Tribunal għal Talbiet Konsumaturi (Malta).
- (7) Għall-finijiet tas-subartikolu (6), il-frazi "jkollha d-domicilju tagħha" għandha tiftiehem skond it-tifsira mogħtija lill-frazi fl-Att ta' l-2001 dwar ir-Ratifika ta' Konvenzjonijiet dwar Proċeduri Legali."

Mghoddi mill-Kamra tad-Deputati fis-Scduta Nru. 719 tad-9 ta' April, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GUIDO DE MARCO
President

19th April, 2002

ACT No. IV of 2002

AN ACT to enable Malta to ratify the international conventions on the service abroad of judicial and extrajudicial documents, on the taking of evidence abroad in civil or commercial matters, on international access to justice, and on the enforcement of judgments in civil and commercial matters.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Part I

Preliminary

1. (1) The short title of this Act is the Legal Procedures (Ratification of Conventions) Act, 2002. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for Justice may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

2. In this Act, unless the context otherwise requires - Interpretation.

"central authority" means the Authority appointed under article 4;

"Contracting State", in relation to any or all the Conventions, and for the purposes of all or any of the Conventions as having the force of law in Malta, means those States, other than Malta, as shall

from time to time be specified by the Minister by an order made under article 3:

"Conventions" collectively means The Hague Convention of 1965, The Hague Convention of 1970, The Hague Convention of 1980 and the Lugano Convention of 1988:

"The Hague Convention of 1965" means the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters which was signed at The Hague on the 15th November, 1965, the text of which Convention is set out in Part A of the First Schedule to this Act:

"The Hague Convention of 1970" means the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters which was signed at The Hague on 18th March, 1970, the text of which Convention is set out in Part B of the First Schedule to this Act:

"The Hague Convention of 1980" means the Convention on the International Access to Justice which was signed at The Hague on 25th October, 1980, the text of which Convention is set out in Part C of the First Schedule to this Act:

"the Lugano Convention of 1988" means the Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters which was signed at Lugano on 16th September, 1988, including Protocols 1, 2 and 3, the text of which Convention and Protocols is set out in Part D of the First Schedule to this Act:

"Malta" has the same meaning assigned to it by article 124 of the Constitution:

"Minister" means the Minister responsible for Justice:

"Non-Contracting State" means any State which is not a Contracting State:

"prescribed" means prescribed by regulations made by the Minister under this Act.

Contracting
States.

3. (1) The Minister may, by order in the Gazette, from time to time specify the Contracting States, other than Malta, for the purposes of any or all the Conventions.

(2) Such order shall specify the date of coming into force of the particular Convention, as between Malta and any State specified in the order.

(3) Where a particular Convention applies, or applies only, to a particular territory or particular territories specified in a declaration made by a Contracting State, references to that State in subarticles (1) and (2) shall be construed as references to that territory or those territories -

(a) under Article 29 of The Hague Convention of 1965;
or

(b) under Article 40 of The Hague Convention of 1970;
or

(c) under Article 32 or 33 of The Hague Convention of 1980,

as the case may be.

4. (1) The functions of a central authority under the Conventions, other than The Lugano Convention of 1988, hereinafter referred to as "the central authority", shall be discharged by such office, department or authority as may from time to time be designated for the purpose by the Minister by notice in the Gazette. Central Authority.

(2) The central authority shall also have the functions, powers and duties assigned to it by or under this Act.

Part II

The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

(5th November, 1965)

5. (1) Subject to the provisions of this Part of this Act, the provisions of The Hague Convention of 1965 shall, subject to the reservations contained in the Second Schedule, have the force of law in Malta, and shall apply in all cases, in civil and commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in a Contracting State other than Malta for service in Malta, as well as where there is occasion to transmit a judicial or extrajudicial document originating in Malta for service in a Contracting State other than Malta. Scope of applicability.

(2) Documents which fall under the provisions of this Part of this Act, and which originate in Malta, shall be transmitted -

(a) directly by the central authority, in the case of extrajudicial documents; and

(b) by the Registrar of Courts, to the central authority, in the case of judicial documents,

and, subject to the provisions of this Part of this Act, the central authority shall transmit back the decision to the authority concerned.

(3) The Minister may make rules with respect to the charging of fees and the reimbursement of costs incurred by the central authority in the transmission of documents under this Act.

Central authority to transmit reports for service.

6. (1) For the purposes of Article 3 of The Hague Convention of 1965, the central authority shall be competent to forward requests for service of documents originating in Malta to the central authority of other Contracting States, and any document duly served through the central authority in accordance with The Hague Convention of 1965 shall, for the purpose of the relevant law in Malta, be deemed to be properly served on the person to whom it is addressed.

(2) The central authority shall in each case of a request for service made under this Part of this Act determine the costs, if any, occasioned by the services rendered by the central authority and permitted to be charged to the applicant pursuant to Article 12 of The Hague Convention of 1965.

Method of service.

7. Where Malta is the State addressed for the purposes of Article 5 of The Hague Convention of 1965, the central authority shall cause the document to be served by attaching the document to a judicial letter filed in the Registry of the Civil Court, First Hall, to be served on the person addressed together with such document, and such judicial letter and accompanying documents shall be served in accordance with the methods prescribed in -

Cap. 12.

(a) article 187(1), (2), (4) or (7) of the Code of Organization and Civil Procedure, as the circumstances of the case may require:

Provided that the reference to curators appointed by the court in the said article 187(7) shall not apply: or

Cap. 12.

(b) article 187(8) of the Code of Organization and Civil Procedure:

Provided that the proviso to the said article 187(8) shall not apply,

as the central authority may deem fit to specify in the circumstances of each case.

8. Pursuant to the declaration made by Malta, and reproduced in the Second Schedule to this Act, as provided in the second paragraph of Article 8 of The Hague Convention of 1965, no service of documents may be made by any Contracting State upon persons who are in Malta, directly through such State's diplomatic or consular agents, unless the document is to be served upon a national of the State in which the documents originate; such service shall be effected by such method acceptable to the law of the State in which the document originates, provided that such service does not involve any action contrary to the law of Malta.

Declaration and objections.

9. (1) The provisions of articles 10 to 15 shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in a Non-Contracting State for service in Malta.

Applicability of articles.

(2) The provisions of article 16 shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in Malta for service in a Non-Contracting State.

(3) In either case, where the address of the person to be served with the document is not known, the central authority shall refuse to accept the document for transmission.

(4) The provisions of this article shall not be construed as imposing an obligation on the central authority to exercise its functions under any of the provisions of this Part of this Act.

10. (1) The authority or judicial officer or person competent under the law of the Non-Contracting State in which the documents originate, hereinafter referred to as "the applicant", shall forward to the central authority a request for service in the form set out in Part A of the Third Schedule to this Act, without any requirement or equivalent formality, other than is provided in the said Part A of the Third Schedule.

Report for service.

(2) (a) The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate and, if not in the English language, shall be accompanied by two certified translations thereof in the English language.

(b) For the purposes of this subarticle, "certified translation" shall mean a translation certified as a true and correct translation of the original by the diplomatic or consular representative of the Government of Malta in the State in which the request and, or document originates.

- Non-compliance. **11.** If the central authority considers that the request does not comply with the provisions of article 10, it shall promptly inform the applicant and specify its objections to the request.
- Method of service. **12.** (1) The document shall be served in accordance with the rules contained in article 5, which shall, *mutatis mutandis*, apply.
- (2) That part of the request which contains a summary of the document to be served, shall be served with the document, in the form set out in the Third Schedule to this Act.
- Certificate of service. **13.** (1) Where service has been effected, the central authority shall complete a certificate of service, which shall be in the English language, in the form set out in Part B of the Third Schedule to this Act.
- (2) The certificate shall state that the document has been served and shall include the method, the place and the date of service, and the person to whom the document was delivered. If the document has not been served, the certificate shall state such fact and set out the reasons which have prevented service. The certificate shall also state the particulars of charges for costs for the services rendered by the central authority, determined as provided in article 14.
- (3) The certificate shall be forwarded directly by the central authority to the person who has applied for service.
- Costs of services. **14.** The central authority shall, in each case of a request for service made under this Part of this Act, determine the costs occasioned by the services to be rendered by it in effecting service. The central authority shall not proceed with an application unless the costs as so determined are deposited with it or proper security is given for such payment. The costs so determined shall be indicated in the certificate of service referred to in article 13.
- Refusal to comply with request for service. **15.** (1) Where a request for service complies with the provisions of this Part of this Act, the central authority may refuse to comply therewith only if it deems that compliance would infringe the sovereignty or security of Malta. It may not refuse to comply solely on the ground that, under the internal law of Malta, Malta claims exclusive jurisdiction over the subject matter of the action, or that the internal law of Malta does not permit the action in connection with which the request is made.
- (2) The central authority shall, in case of refusal, promptly inform the applicant and state the reason for the refusal.

16. The central authority shall be competent to receive, process and transmit requests for service and documents originating in Malta to the competent authorities or persons of Non-Contracting States for service in such States -

Transmission of requests for service and documents to Non-Contracting States.

(a) through the Registrar of Courts, in the case of judicial documents, in accordance with such rules as may be prescribed; and

(b) through the applicant, in the case of extrajudicial documents, who shall deposit, in the office of the central authority, an authenticated copy of the document in the language of the Contracting State, other than Malta, where the document is to be transmitted.

Part III

The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters

(18th March, 1970)

17. Subject to the provisions of this Part of this Act, the provisions of Chapters I and II of The Hague Convention of 1970 shall have the force of law in Malta.

Scope of applicability.

18. (1) The functions of the central authority under The Hague Convention of 1970 shall be discharged by the central authority appointed under article 4, and any letter of request coming from a judicial authority of a Contracting State, made under The Hague Convention of 1970, shall be addressed to the central authority, which shall transmit the same to the competent court by means of an application.

Functions and jurisdiction.

(2) The First Hall of the Civil Court and, where the witness resides in Gozo, the Court of Magistrates (Gozo) in its superior jurisdiction or any other court which the Minister may by order designate from time to time, shall have jurisdiction to execute letters of request, coming from a judicial authority of a Contracting State, made under The Hague Convention of 1970.

19. For the purposes of Article 8 of The Hague Convention of 1970, the judicial personnel of the authorities requesting execution of a letter of request made under The Hague Convention of 1970 may, if authorised by the central authority, be present at the execution of the letter of request.

Execution of letters of request.

Non-
applicability of
certain articles.
Cap. 12.

20. (1) The provisions of articles 614(2) and (3), 618, 619, 620 and 622(2) of the Code of Organization and Civil Procedure shall not apply, for Non-Contracting States, in the execution of letters of request sent by the judicial authority of a Contracting State made under The Hague Convention of 1970.

(2) The Minister may, by rules made under this article, set up the procedure to be followed in the case of letters of request made by a Contracting State, other than Malta, for the evidence of a person residing in Malta.

(3) Subject to the provisions of subarticles (1) and (2), the court shall transmit the letter of request, either directly to the central authority of the requesting State or through the central authority of Malta.

Reservation.

21. In conformity with the reservation, made by Malta, in accordance with paragraph 2 of Article 4 of The Hague Convention of 1970, the text of which is reproduced in the Second Schedule, letters of request transmitted through the central authority shall be made in either one of the official languages of Malta.

Part IV

The Hague Convention on International Access to Justice

(25th October, 1980)

Scope of
applicability.

22. (1) Subject to the following provisions of this article, The Hague Convention of 1980 shall have the force of law in Malta.

(2) Subject to the provisions of articles 23 to 26, and subject to the reservation made thereto by Malta, and reproduced in the Fourth Schedule to this Act, the provisions of Chapter I of The Hague Convention of 1980 shall have the force of law in Malta.

(3) Where the applicant for legal aid resides abroad, there shall be required to be sent to the central authority a certificate, issued by the transmitting authority appointed under Article 4 of The Hague Convention of 1980, confirming that the applicant is so entitled, and the central authority shall, by means of an application, request the competent court to confirm that the applicant is entitled to legal aid.

(4) Where the applicant resides in Malta, the applicant shall personally request the central authority to apply on his behalf to the central authority abroad, by means of an application together with a certificate, issued by the transmitting authority appointed under Article 4 of The Hague Convention of 1980, showing that the

applicant is so entitled to legal aid, under the provisions of The Hague Convention of 1980.

23. The central authority referred to in article 4 shall be competent to receive and to take action on applications for legal aid submitted under Chapter I of The Hague Convention of 1980. Central authority.

24. (1) Where the central authority is of the opinion that the applicant should not be admitted to the benefit of legal aid, the applicant shall have the right to apply to the Civil Court, First Hall, within seven days of the decision of the central authority having been communicated to the applicant; the Court may - Jurisdiction.

(a) either give its decree *in camera*; or

(b) give its decree in a public sitting, after hearing the parties.

as to the admission or rejection of the application.

(2) The determination of the Civil Court shall be final.

25. In the case where the applicant is admitted to the benefit of legal aid, the provisions of articles 918 to 926 of the Code of Organization and Civil Procedure shall apply. Procedure on admission to legal aid. Cap. 12.

26. The central authority shall be the transmitting authority for the purposes of Article 5 of The Hague Convention of 1980, and shall have the function of receiving, processing and forwarding applications for legal aid to the appropriate central authority in the requested State. Transmitting authority.

27. Subject to the provisions of article 28, the provisions of Chapter II of The Hague Convention of 1980 shall have the force of law in Malta. Scope of applicability.

28. (1) The central authority referred to in article 4 shall discharge the functions specified in Article 16 of The Hague Convention of 1980. Central authority.

(2) The central authority shall have the power to reach a final decision on applications forwarded to it by transmitting authorities of other Contracting States, or in any other manner, specified in Article 16 of The Hague Convention of 1980, for rendering enforceable orders to which Article 16 of The Hague Convention of 1980 applies, and for the purposes of Chapter II of the said Convention, the central authority shall also be the competent authority to determine such applications.

(3) For the purposes of rendering the determination of the applications referred to in subarticle (2) an executive title, it shall be sufficient for the purposes of this Act for the applicant or the central authority -

- (a) to request repayment of the security for costs; or
- (b) to request an order for costs.

by judicial letter filed in the Registry of the Civil Court, First Hall, accompanied by an official copy of the decision of the competent authority.

Cap. 12.

(4) Subject to the provisions of subarticle (3), the determination shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

(5) There shall be no right of appeal against the decision of the competent authority in the cases referred to in this article.

Part V

The Lugano Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters

(16th September, 1988)

Interpretation.

29. In this Part of this Act, unless the context otherwise requires -

"court" includes any court or tribunal within the meaning of Article 25 of the Lugano Convention of 1988:

"judgement" has the same meaning assigned to it by Article 25 of the Lugano Convention of 1988.

Scope of applicability.

30. Subject to the provisions of this Part of this Act, the Lugano Convention of 1988 and Protocols 1, 2 and 3, and which are annexed to the Lugano Convention of 1988, and the English text of which is set out in Part D of the First Schedule to this Act, shall have the force of law in Malta.

Interpretation of Convention.

31. In this Part the reference to the Lugano Convention of 1988 shall be deemed to include a reference to the Protocols thereto.

Extension of applicability.

32. (1) The Minister may by order extend the applicability of the provisions of this Part of this Act to those States which may, from time to time, accede to the Lugano Convention of 1988, and

may prescribe regulations to give effect to the provisions of this article.

(2) The Minister may moreover by regulations substitute, amend, add to or delete from the text of the Lugano Convention of 1988 and the Protocols thereto as reproduced in Part D of the First Schedule to this Act as may be necessary, incidental or consequential to the accession to the said Convention by Malta or any other State.

33. (1) In so far as there may be any conflict between the provisions of the Lugano Convention of 1988 and those of the Code of Organization and Civil Procedure, or any other law in Malta, the provisions of this Part of this Act and of the Lugano Convention of 1988 shall prevail with regard to the matters regulated by the said Convention; otherwise, the provisions of the Code of Organization and Civil Procedure and of any other law shall continue to apply.

Jurisdiction.
Cap. 12.

(2) Save as is permitted or provided by the Lugano Convention of 1988, and in particular by Sections 2 to 6 of Title II of the said Convention, jurisdiction, in matters falling within the scope of the Convention, shall not be exercised by the courts in Malta over persons domiciled in another Contracting State, except, however, that pending the entry into force for Malta of the International Convention on the Arrest of Sea-Going Ships signed at Brussels on 10th May, 1952, nothing shall affect the jurisdiction of the court of Malta founded upon or in relation to arrest of ships.

34. In accordance with Article 24 of the Lugano Convention of 1988, when any proceedings have been brought, or are likely to be brought, in another Contracting State in respect of any matter to which the said Article applies, the court in Malta shall have the power to make such orders and take such measures, in accordance with the provisions of the Code of Organization and Civil Procedure, as if the proceedings had been brought or were likely to be brought in Malta, and the provisions of the said Code requiring the filing of any action in Court to enforce the claim safeguarded by such measures shall be deemed satisfied if such action is brought before a court having jurisdiction in accordance with the Convention within the time set out in the Code.

Precautionary
acts.

Cap. 12.

35. (1) A judgement which, in accordance with Article 31 of the Lugano Convention of 1988, is enforceable in Malta shall be registered by the registering court in accordance with the procedure which may, from time to time, be prescribed. The proceedings shall be commenced by application before the registering court, which will proceed to give its decision in accordance with Section II of the Lugano Convention of 1988.

Enforcement of
judgements.

(2) For the purposes of subarticle (1) -

"the registering court" shall mean the Civil Court, First Hall, or such other court as the Minister may by order designate, for the purposes of Article 32 of the Lugano Convention of 1988; and

"prescribed" means prescribed by rules made by the Minister under this article.

(3) Where a judgement is registered under this article, the costs and expenses of its registration shall be recoverable as if they were sums recoverable under the judgement.

(4) Subject to the provisions of Article 39 of the Lugano Convention, of this Part of this Act and of any regulations made thereunder, a judgement registered under this article shall, for the purposes of its enforcement have the same force and effect, and the registering court shall have the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgement had been originally given by the registering court.

Appeals.

Cap. 12.

36. An appeal from a decision by the registering court to register or not to register a judgement shall be to the Court of Appeal in accordance with the procedure laid down for appeals in the Code of Organization and Civil Procedure and the provisions of Title IV of Book Third of the said Code shall apply to such decisions.

Non-recognition
of judgements.

37. (1) Subject to the following provisions of this article, a judgement given by a court of a Contracting State in any proceedings shall not be recognized and enforced in Malta if -

(a) the bringing of those proceedings in that court was contrary to an agreement under which the dispute was to be settled otherwise than by proceedings in the courts of that country; and

(b) those proceedings were not brought in that court by, or with the agreement of, the person against whom the judgement was given; and

(c) that person did not counterclaim in the proceedings or otherwise submit to the jurisdiction of that court.

(2) The provisions of subarticle (1) shall not apply where the agreement referred to in paragraph (a) of that subarticle was illegal, void or unenforceable or was incapable of being performed for reasons not attributable to the fault of the party bringing the proceedings in which the judgement was given.

(3) Nothing in subarticle (1) shall affect the recognition or enforcement in Malta of a judgement which is required to be so recognised or enforced under the provisions of the Lugano Convention of 1988, as having the force of law in Malta.

38. (1) For the purposes of this Part of this Act, an individual shall be deemed to be domiciled in Malta if, and only if - Domicile of individuals.

- (a) he is resident in Malta; and
- (b) the nature and the circumstances of his residence indicate that he has a substantial connection with Malta.

(2) For the purposes of this Part of this Act, an individual shall be deemed to be domiciled in a State other than Malta if, and only if -

- (a) he is a resident in that State; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that State.

(3) In the case of an individual who -

- (a) is a resident in Malta or is a resident in a State other than Malta; and
- (b) has been so resident for the last six months or more

the requirements of subarticles (1)(b) and (2)(b) shall be presumed to have been fulfilled unless the contrary is proved.

39. (1) For the purposes of this Part of this Act, the seat of a body corporate or association shall be treated as that body corporate's or that association's domicile. Domicile of body corporate or association.

(2) A body corporate or association shall be deemed to have its seat in Malta if, and only if -

- (a) it is incorporated or formed under the law of Malta and has its registered office or some other official address in Malta; or
- (b) its central management and control is exercised in Malta.

(3) Subject to the provisions of subarticle (4), a body corporate or association shall be deemed to have its seat in a State other than Malta if, and only if -

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(a) it was incorporated or formed under the law of that State and has its registered office or other official address there; or

(b) its central management and control is exercised in that State.

(4) A body corporate or association shall not be deemed as having its seat in a Contracting State other than Malta if it is shown that the courts of that State would not regard it as having its seat there.

(5) In this article -

"association" means any unincorporated body of persons;

"body corporate" means any entity having a legal personality distinct from that of its members;

"official address", in relation to a body corporate or association, means an address which it is required by law to register, notify or maintain for the purpose of receiving notices or other communications:

Provided that where the law of Malta or of the State concerned does not require the registration, notification or maintenance of any such address, the reference in this article to an official address shall be deemed not to have been made.

Domicile of
Trusts.
Cap. 331.

40. For the purposes of this Part of this Act, a trust shall be deemed to be domiciled in Malta if it is registered in Malta under the Trusts Act or if Maltese law is the system of law with which the trust has its closest and most real connection.

Part VI

General Provisions

Regulations.

41. (1) The Minister may make regulations prescribing anything that in virtue of this Act is required to be prescribed and generally for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subarticle (1), regulations may, in particular, be made to establish the criteria to be applied by the central authority in determining the costs incurred by it in accordance with the provisions of article 14.

(3) Without prejudice to the generality of subarticle (1), such

regulations may, *mutatis mutandis*, make provision with respect to the procedure on applications to a court under any provision of Part V of this Act and with respect to the documents and information to be furnished and the notices to be given in connection with any such application.

42. In the First, Second and Fourth Schedules to this Act, should there be any conflict between the English and the Maltese texts, the English text shall prevail.

Conflict
between texts.

43. By virtue of this Act, the Government of Malta is hereby authorised to ratify all or any of the Conventions.

Ratification of
Conventions.

44. The enactments in the First Column in the Fifth Schedule to this Act shall have effect subject to the amendments appearing relative thereto in the Second Column of the said Schedule.

Consequential
amendments.

SCHEDULES

FIRST SCHEDULE

(Articles 2, 30, 32 and 42)

Part A

**THE HAGUE CONVENTION ON THE SERVICE ABROAD OF JUDICIAL
AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL
MATTERS**

(15 November, 1965)

The States signatory to the present Convention.

Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time.

Desiring to improve the organisation of mutual judicial assistance for that purpose by simplifying and expediting the procedure.

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

Article 1

The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of the person to be served with the document is not known.

CHAPTER I

JUDICIAL DOCUMENTS

Article 2

Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6.

Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either -

(a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

(b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph (b) of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the

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reasons which have prevented service.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which are designated by the latter for this purpose.

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with -

(a) the freedom to send judicial documents, by postal channels, directly to persons abroad.

(b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly

through the judicial officers, officials or other competent persons of the State of destination.

(c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more Contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by -

(a) the employment of a judicial officer or of a person competent under the law of the State of destination.

(b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that -

(a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or

(b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention,

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled -

(a) the document was transmitted by one of the methods provided for in this Convention,

(b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,

(c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled -

(a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal, and

(b) the defendant has disclosed a prima facie defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

This Article shall not apply to judgments concerning status or capacity of persons.

CHAPTER II

EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.

CHAPTER III

GENERAL CLAUSES

Article 18

Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence.

The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with -

- (a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3.
- (b) the language requirements of the third paragraph of Article 5 and Article 7.
- (c) the provisions of the fourth paragraph of Article 5.
- (d) the provisions of the second paragraph of Article 12.

Article 21

Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following -

- (a) the designation of authorities, pursuant to Articles 2 and 18.
- (b) the designation of the authority competent to complete the certificate pursuant to Article 6.
- (c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.

Each Contracting State shall similarly inform the Ministry, where appropriate, of -

- (a) opposition to the use of methods of transmission pursuant to Articles 8 and 10.
- (b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16.
- (c) all modifications of the above designations, oppositions and declarations.

Article 22

Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, this Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.

Article 23

The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at the Hague on 1st March 1954.

These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.

Article 24

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.

Article 25

Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by this Convention to which the Contracting States are, or shall become, Parties.

Article 26

The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

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The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following -

- (a) the signatures and ratifications referred to in Article 26:

(b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;

(c) the accessions referred to in Article 28 and the dates on which they take effect;

(d) the extensions referred to in Article 29 and the dates on which they take effect;

(e) the designations, oppositions and declarations referred to in Article 21;

(f) the denunciations referred to in the third paragraph of Article 30.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.

**FORMS
(REQUEST AND CERTIFICATE)**

**SUMMARY OF THE DOCUMENT TO BE SERVED
(Annexes provided for Articles 3, 5, 6 and 7)**

ANNEX TO THE CONVENTION

Forms

**REQUEST FOR SERVICE ABROAD OF
JUDICIAL OR EXTRAJUDICIAL DOCUMENTS**

**Convention on the Service Abroad of Judicial and
Extrajudicial Documents in Civil or Commercial Matters,
signed at The Hague, on the 15th of November 1965.**

Identity and address	Address of receiving
of the applicant	authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.

(identity and address)

.....
.....

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:

.....
.....

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Done at the

Signature and/or stamp.

* Delete if inappropriate.

Part B

**CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN
CIVIL OR COMMERCIAL MATTERS**

(18 March, 1970)

Preamble

The States signatory to the present Convention,

Desiring to facilitate the transmission and execution of Letters of Request and to further the accommodation of the different methods which they use for this purpose,

Desiring to improve mutual judicial co-operation in civil or commercial matters,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

CHAPTER I

LETTERS OF REQUEST

Article 1

In civil or commercial matters a judicial authority of a Contracting State may, in accordance with the provisions of the law of that State, request the competent authority of another Contracting State, by means of a Letter of Request, to obtain evidence, or to perform some other judicial act.

A Letter shall not be used to obtain evidence which is not intended for use in judicial proceedings, commenced or contemplated.

The expression "other judicial act" does not cover the service of judicial documents or the issuance of any process by which judgments or orders are executed or enforced, or orders for provisional or protective measures.

Article 2

A Contracting State shall designate a Central Authority which will undertake to receive Letters of Request coming from a judicial authority of another Contracting State and to transmit them to the authority competent to execute them. Each State shall organize the Central Authority in accordance with its own law.

Letters shall be sent to the Central Authority of the State of execution without being transmitted through any other authority of that State.

Article 3

A Letter of Request shall specify -

- (a) the authority requesting its execution and the authority requested to execute it, if known to the requesting authority;
- (b) the names and addresses of the parties to the proceedings and their representatives, if any;
- (c) the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto;
- (d) the evidence to be obtained or other judicial act to be performed.

Where appropriate, the Letter shall specify, inter alia -

- (e) the names and addresses of the persons to be examined;
- (f) the questions to be put to the persons to be examined or a statement of the subject-matter about which they are to be examined;
- (g) the documents or other property, real or personal, to be inspected;
- (h) any requirement that the evidence is to be given on oath or affirmation, and any special form to be used;
- (i) any special method or procedure to be followed under Article 9.

A Letter may also mention any information necessary for the application of Article 11.

No legalization or other like formality may be required.

Article 4

A Letter of Request shall be in the language of the authority requested to execute it or be accompanied by a translation into that language.

Nevertheless, a Contracting State shall accept a Letter in either English or French, or a translation into one of these languages, unless it has made the reservation authorized by Article 33.

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept Letters in one of these languages for the whole of its territory, shall, by declaration, specify the language in which the Letter or translation thereof shall be expressed for execution in the specified parts of its territory. In case of failure to comply with this declaration, without justifiable

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excuse, the costs of translation into the required language shall be borne by the State of origin.

A Contracting State may, by declaration, specify the language or languages other than those referred to in the preceding paragraphs, in which a Letter may be sent to its Central Authority.

Any translation accompanying a Letter shall be certified as correct, either by a diplomatic officer or consular agent or by a sworn translator or by any other person so authorized in either State.

Article 5

If the Central Authority considers that the request does not comply with the provisions of the present Convention, it shall promptly inform the authority of the State of origin which transmitted the Letter of Request, specifying the objections to the Letter.

Article 6

If the authority to whom a Letter of Request has been transmitted is not competent to execute it, the Letter shall be sent forthwith to the authority in the same State which is competent to execute it in accordance with the provisions of its own law.

Article 7

The requesting authority shall, if it so desires, be informed of the time when, and the place where, the proceedings will take place, in order that the parties concerned, and their representatives, if any, may be present. This information shall be sent directly to the parties or their representatives when the authority of the State of origin so requests.

Article 8

A Contracting State may declare that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request. Prior authorization by the competent authority designated by the declaring State may be required.

Article 9

The judicial authority which executes a Letter of Request shall apply its own law as to the methods and procedures to be followed.

However, it will follow a request of the requesting authority that a special method or procedure be followed, unless this is incompatible with the internal law

of the State of execution or is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties.

A Letter of Request shall be executed expeditiously.

Article 10

In executing a Letter of Request the requested authority shall apply the appropriate measures of compulsion in the instances and to the same extent as are provided by its internal law for the execution of orders issued by the authorities of its own country or of requests made by parties in internal proceedings.

Article 11

In the execution of a Letter of Request the person concerned may refuse to give evidence in so far as he has a privilege or duty to refuse to give the evidence -

(a) under the law of the State of execution; or

(b) under the law of the State of origin, and the privilege or duty has been specified in the Letter, or, at the instance of the requested authority, has been otherwise confirmed to that authority by the requesting authority.

A Contracting State may declare that, in addition, it will respect privileges and duties existing under the law of States other than the State of origin and the State of execution, to the extent specified in that declaration.

Article 12

The execution of a Letter of Request may be refused only to the extent that -

(a) in the State of execution the execution of the Letter does not fall within the functions of the judiciary; or

(b) the State addressed considers that its sovereignty or security would be prejudiced thereby.

Execution may not be refused solely on the ground that under its internal law the State of execution claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not admit a right of action on it.

Article 13

The documents establishing the execution of the Letter of Request shall be sent by the requested authority to the requesting authority by the same channel which was used by the latter.

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In every instance where the Letter is not executed in whole or in part, the requesting authority shall be informed immediately through the same channel and advised of the reasons.

Article 14

The execution of the Letter of Request shall not give rise to any reimbursement of taxes or costs of any nature.

Nevertheless, the State of execution has the right to require the State of origin to reimburse the fees paid to experts and interpreters and the costs occasioned by the use of a special procedure requested by the State of origin under Article 9, paragraph 2.

The requested authority whose law obliges the parties themselves to secure evidence, and which is not able itself to execute the Letter, may, after having obtained the consent of the requesting authority, appoint a suitable person to do so. When seeking this consent the requested authority shall indicate the approximate costs which would result from this procedure. If the requesting authority gives its consent it shall reimburse any costs incurred; without such consent the requesting authority shall not be liable for the costs.

CHAPTER II

TAKING OF EVIDENCE BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS

Article 15

In civil or commercial matters, a diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, take the evidence without compulsion of nationals of a State which he represents in aid of proceedings commenced in the courts of a State which he represents.

A Contracting State may declare that evidence may be taken by a diplomatic officer or consular agent only if permission to that effect is given upon application made by him or on his behalf to the appropriate authority designated by the declaring State.

Article 16

A diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, also take the evidence, without compulsion, of nationals of the State in which he exercises his functions or of a third State, in aid of proceedings commenced in the courts of a State which he represents, if -

(a) a competent authority designated by the State in which he exercises his functions has given its permission either generally or in the particular case, and

(b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Article 17

In civil or commercial matters, a person duly appointed as a commissioner for the purpose may, without compulsion, take evidence in the territory of a Contracting State in aid of proceedings commenced in the courts of another Contracting State, if -

(a) a competent authority designated by the State where the evidence is to be taken has given its permission either generally or in the particular case; and

(b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Article 18

A Contracting State may declare that a diplomatic officer, consular agent or commissioner authorized to take evidence under Articles 15, 16 or 17, may apply to the competent authority designated by the declaring State for appropriate assistance to obtain the evidence by compulsion. The declaration may contain such conditions as the declaring State may see fit to impose.

If the authority grants the application it shall apply any measures of compulsion which are appropriate and are prescribed by its law for use in internal proceedings.

Article 19

The competent authority, in giving the permission referred to in Articles 15, 16 or 17, or in granting the application referred to in Article 18, may lay down such conditions as it deems fit, inter alia, as to the time and place of the taking of the evidence. Similarly it may require that it be given reasonable advance notice of the time, date and place of the taking of the evidence; in such a case a representative of the authority shall be entitled to be present at the taking of the

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evidence.

Article 20

In the taking of evidence under any Article of this Chapter persons concerned may be legally represented.

Article 21

Where a diplomatic officer, consular agent or commissioner is authorized under Articles 15, 16 or 17 to take evidence -

(a) he may take all kinds of evidence which are not incompatible with the law of the State where the evidence is taken or contrary to any permission granted pursuant to the above Articles, and shall have power within such limits to administer an oath or take an affirmation:

(b) a request to a person to appear or to give evidence shall, unless the recipient is a national of the State where the action is pending, be drawn up in the language of the place where the evidence is taken or be accompanied by a translation into such language:

(c) the request shall inform the person that he may be legally represented and, in any State that has not filed a declaration under Article 18, shall also inform him that he is not compelled to appear or to give evidence:

(d) the evidence may be taken in the manner provided by the law applicable to the court in which the action is pending provided that such manner is not forbidden by the law of the State where the evidence is taken:

(e) a person requested to give evidence may invoke the privileges and duties to refuse to give the evidence contained in Article 11.

Article 22

The fact that an attempt to take evidence under the procedure laid down in this Chapter has failed, owing to the refusal of a person to give evidence, shall not prevent an application being subsequently made to take the evidence in accordance with Chapter I.

CHAPTER III

GENERAL CLAUSES

Article 23

A Contracting State may at the time of signature, ratification or accession,

declare that it will not execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in Common Law countries.

Article 24

A Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence. However, Letters of Request may in all cases be sent to the Central Authority.

Federal States shall be free to designate more than one Central Authority.

Article 25

A Contracting State which has more than one legal system may designate the authorities of one of such systems, which shall have exclusive competence to execute Letters of Request pursuant to this Convention.

Article 26

A Contracting State, if required to do so because of constitutional limitations, may request the reimbursement by the State of origin of fees and costs, in connection with the execution of Letters of Request, for the service of process necessary to compel the appearance of a person to give evidence, the costs of attendance of such persons, and the cost of any transcript of the evidence.

Where a State has made a request pursuant to the above paragraph, any other Contracting State may request from that State the reimbursement of similar fees and costs.

Article 27

The provisions of the present Convention shall not prevent a Contracting State from -

- (a) declaring that Letters of Request may be transmitted to its judicial authorities through channels other than those provided for in Article 2;
- (b) permitting, by internal law or practice, any act provided for in this Convention to be performed upon less restrictive conditions;
- (c) permitting, by internal law or practice, methods of taking evidence other than those provided for in this Convention.

Article 28

The present Convention shall not prevent an agreement between any two or

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more Contracting States to derogate from -

(a) the provisions of Article 2 with respect to methods of transmitting Letters of Request;

(b) the provisions of Article 4 with respect to the languages which may be used;

(c) the provisions of Article 8 with respect to the presence of judicial personnel at the execution of Letters;

(d) the provisions of Article 11 with respect to the privileges and duties of witnesses to refuse to give evidence;

(e) the provisions of Article 13 with respect to the methods of returning executed Letters to the requesting authority;

(f) the provisions of Article 14 with respect to fees and costs;

(g) the provisions of Chapter II.

Article 29

Between Parties to the present Convention who are also Parties to one or both of the Conventions on Civil Procedure signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 8 - 16 of the earlier Conventions.

Article 30

The present Convention shall not affect the application of Article 23 of the Convention of 1905, or of Article 24 of the Convention of 1954.

Article 31

Supplementary Agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention unless the Parties have otherwise agreed.

Article 32

Without prejudice to the provisions of Articles 29 and 31, the present Convention shall not derogate from conventions containing provisions on the matters covered by this Convention to which the Contracting States are, or shall become Parties.

Article 33

A State may, at the time of signature, ratification or accession exclude, in whole or in part, the application of the provisions of paragraph 2 of Article 4 and of Chapter II. No other reservation shall be permitted.

Each Contracting State may at any time withdraw a reservation it has made; the reservation shall cease to have effect on the sixtieth day after notification of the withdrawal.

When a State has made a reservation, any other State affected thereby may apply the same rule against the reserving State.

Article 34

A State may at any time withdraw or modify a declaration.

Article 35

A Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the designation of authorities, pursuant to Articles 2, 8, 24 and 25.

A Contracting State shall likewise inform the Ministry, where appropriate, of the following -

- (a) the designation of the authorities to whom notice must be given, whose permission may be required, and whose assistance may be invoked in the taking of evidence by diplomatic officers and consular agents, pursuant to Articles 15, 16 and 18 respectively;
- (b) the designation of the authorities whose permission may be required in the taking of evidence by commissioners pursuant to Article 17 and of those who may grant the assistance provided for in Article 18;
- (c) declarations pursuant to Articles 4, 8, 11, 15, 16, 17, 18, 23 and 27;
- (d) any withdrawal or modification of the above designations and declarations;
- (e) the withdrawal of any reservation.

Article 36

Any difficulties which may arise between Contracting States in connection with the operation of this Convention shall be settled through diplomatic channels.

Article 37

The present Convention shall be open for signature by the States represented at the Eleventh Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 38

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 37.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 39

Any State not represented at the Eleventh Session of the Hague Conference on Private International Law which is a Member of this Conference or of the United Nations or of a specialized agency of that Organization, or a Party to the Statute of the International Court of Justice may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 38.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for a State acceding to it on the sixtieth day after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the sixtieth day after the deposit of the declaration of acceptance.

Article 40

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State

concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification indicated in the preceding paragraph.

Article 41

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 38, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 42

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 37, and to the States which have acceded in accordance with Article 39, of the following -

- (a) the signatures and ratifications referred to in Article 37;
- (b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 38;
- (c) the accessions referred to in Article 39 and the dates on which they take effect;
- (d) the extensions referred to in Article 40 and the dates on which they take effect;
- (e) the designations, reservations and declarations referred to in Articles 33 and 35;
- (f) the denunciations referred to in the third paragraph of Article 41.

In witness whereof the undersigned, being duly authorized thereto, have

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signed the present Convention.

Done at The Hague, on the 18th day of March, 1970, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Eleventh Session of the Hague Conference on Private International Law.

Part C

THE HAGUE CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE

(25 October, 1980)

The States signatory to this Convention.

Desiring to facilitate international access to justice.

Have resolved to conclude a Convention for this purpose and have agreed upon the following provisions -

CHAPTER I

LEGAL AID

Article 1

Nationals of any Contracting State and persons habitually resident in any Contracting State shall be entitled to legal aid for court proceedings in civil and commercial matters in each Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Persons to whom paragraph 1 does not apply, but who formerly had their habitual residence in a Contracting State in which court proceedings are to be or have been commenced, shall nevertheless be entitled to legal aid as provided by paragraph 1 if the cause of action arose out of their former habitual residence in that State.

In States where legal aid is provided in administrative, social or fiscal matters, the provisions of this Article shall apply to cases brought before the courts or tribunals competent in such matters.

Article 2

Article 1 shall apply to legal advice provided the person seeking advice is present in the State where advice is sought.

Article 3

Each Contracting State shall designate a Central Authority to receive, and take action on, applications for legal aid submitted under this Convention.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the

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application to whichever other Central Authority in the same Contracting State is competent to do so.

Article 4

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding applications for legal aid to the appropriate Central Authority in the requested State.

Applications for legal aid shall be transmitted, without the intervention of any other authority, in the form of the model annexed to this Convention.

Nothing in this Article shall prevent an application from being submitted through diplomatic channels.

Article 5

Where the applicant for legal aid is not present in the requested State, he may submit his application to a transmitting authority in the Contracting State where he has his habitual residence, without prejudice to any other means open to him of submitting his application to the competent authority in the requested State.

The application shall be in the form of the model annexed to this Convention and shall be accompanied by any necessary documents, without prejudice to the right of the requested State to require further information or documents in appropriate cases.

Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 6

The transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application. It shall ensure that formal requirements are met.

If it appears to the transmitting authority that the application is manifestly unfounded, it may refuse to transmit the application.

It shall assist the applicant in obtaining without charge a translation of the documents where such assistance is appropriate.

It shall reply to requests for further information from the receiving Central Authority in the requested State.

Article 7

The application, the supporting documents and any communications in response to requests for further information shall be in the official language or in one of the official languages of the requested State or be accompanied by a translation into one of those languages.

However, where in the requesting State it is not feasible to obtain a translation into the language of the requested State, the latter shall accept the documents in either English or French, or the documents accompanied by a translation into one of those languages.

Communications emanating from the receiving Central Authority may be drawn up in the official language or one of the official languages of the requested State or in English or French. However, where the application forwarded by the transmitting authority is in either English or French, or is accompanied by a translation into one of those languages, communications emanating from the receiving Central Authority shall also be in one of those languages.

The costs of translation arising from the application of the preceding paragraphs shall be borne by the requesting State, except that any translations made in the requested State shall not give rise to any claim for reimbursement on the part of that State.

Article 8

The receiving Central Authority shall determine the application or shall take such steps as are necessary to obtain its determination by a competent authority in the requested State.

The receiving Central Authority shall transmit requests for further information to the transmitting authority and shall inform it of any difficulty relating to the examination of the application and of the decision taken.

Article 9

Where the applicant for legal aid does not reside in a Contracting State, he may submit his application through consular channels, without prejudice to any other means open to him of submitting his application to the competent authority in the requested State.

Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 10

All documents forwarded under this Chapter shall be exempt from

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legalization or any analogous formality.

Article 11

No charges shall be made for the transmission, reception or determination of applications for legal aid under this Chapter.

Article 12

Applications for legal aid shall be handled expeditiously.

Article 13

Where legal aid has been granted in accordance with Article 1, service of documents in any other Contracting State in pursuance of the legally aided person's proceedings shall not give rise to any charges regardless of the manner in which service is effected. The same applies to Letters of Request and social enquiry reports, except for fees paid to experts and interpreters.

Where a person has received legal aid in accordance with Article 1 for proceedings in a Contracting State and a decision has been given in those proceedings, he shall, without any further examination of his circumstances, be entitled to legal aid in any other Contracting State in which he seeks to secure the recognition or enforcement of that decision.

CHAPTER II

SECURITY FOR COSTS AND ENFORCEABILITY OF ORDERS FOR COSTS

Article 14

No security, bond or deposit of any kind may be required, by reason only of their foreign nationality or of their not being domiciled or resident in the State in which proceedings are commenced, from persons (including legal persons) habitually resident in a Contracting State who are plaintiffs or parties intervening in proceedings before the courts or tribunals of another Contracting State.

The same rule shall apply to any payment required of plaintiffs or intervening parties as security for court fees.

Article 15

An order for payment of costs and expenses of proceedings, made in one of the Contracting States against any person exempt from requirements as to security, bond, deposit or payment by virtue of Article 14 or of the law of the State where the proceedings have been commenced shall, on the application of the person

entitled to the benefit of the order, be rendered enforceable without charge in any other Contracting State.

Article 16

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding to the appropriate Central Authority in the requested State applications for rendering enforceable orders to which Article 15 applies.

Each Contracting State shall designate a Central Authority to receive such applications and to take the appropriate steps to ensure that a final decision on them is reached.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the application to whichever other Central Authority in the requested State is competent to do so.

Applications under this Article shall be transmitted without the intervention of any other authority, without prejudice to an application being transmitted through diplomatic channels.

Nothing in this Article shall prevent applications from being made directly by the person entitled to the benefit of the order unless the requested State has declared that it will not accept applications made in this manner.

Article 17

Every application under Article 15 shall be accompanied by -

(a) a true copy of the relevant part of the decision showing the names and capacities of the parties and of the order for payment of costs or expenses;

(b) any document necessary to prove that the decision is no longer subject to the ordinary forms of review in the State of origin and that it is enforceable there;

(c) a translation, certified as true, of the above-mentioned documents into the language of the requested State, if they are not in that language.

The application shall be determined without a hearing and the competent authority in the requested State shall be limited to examining whether the required documents have been produced. If so requested by the applicant, that authority shall determine the amount of the costs of attestation, translation and certification, which shall be treated as costs and expenses of the proceedings. No legalization or

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analogous formality may be required.

There shall be no right of appeal against the decision of the competent authority except in accordance with the law of the requested State.

CHAPTER III

COPIES OF ENTRIES AND DECISIONS

Article 18

Nationals of any Contracting State and persons habitually resident in any Contracting State may obtain in any other Contracting State, on the same terms and conditions as its nationals, copies of or extracts from entries in public registers and decisions relating to civil or commercial matters and may have such documents legalized, where necessary.

CHAPTER IV

PHYSICAL DETENTION AND SAFE-CONDUCT

Article 19

Arrest and detention, whether as a means of enforcement or simply as a precautionary measure, shall not, in civil or commercial matters, be employed against nationals of a Contracting State or persons habitually resident in a Contracting State in circumstances where they cannot be employed against nationals of the arresting and detaining State. Any fact which may be invoked by a national habitually resident in such State to obtain release from arrest or detention may be invoked with the same effect by a national of a Contracting State or a person habitually resident in a Contracting State even if the fact occurred abroad.

Article 20

A person who is a national of or habitually resident in a Contracting State and who is summoned by name by a court or tribunal in another Contracting State, or by a party with the leave of the court or tribunal, in order to appear as a witness or expert in proceedings in that State shall not be liable to prosecution or detention, or subjected to any other restriction on his personal liberty, in the territory of that State in respect of any act or conviction occurring before his arrival in that State.

The immunity provided for in the preceding paragraph shall commence seven days before the date fixed for the hearing of the witness or expert and shall cease when the witness or expert having had, for a period of seven consecutive days from the date when he was informed by the judicial authorities that his presence is no longer required, an opportunity of leaving has nevertheless remained in the territory, or having left it, has returned voluntarily.

CHAPTER V
GENERAL PROVISIONS

Article 21

Without prejudice to the provisions of Article 22, nothing in this Convention shall be construed as limiting any rights in respect of matters governed by this Convention which may be conferred upon a person under the law of any Contracting State or under any other convention to which it is, or becomes, a party.

Article 22

Between Parties to this Convention who are also Parties to one or both of the Conventions on civil procedure signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 17 to 24 of the Convention of 1905 or Articles 17 to 26 of the Convention of 1954 even if the reservation provided for under paragraph 2 (c) of Article 28 of this Convention has been made.

Article 23

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, to the extent that they are compatible therewith, unless the Parties otherwise agree.

Article 24

A Contracting State may by declaration specify a language or languages other than those referred to in Articles 7 and 17 in which documents sent to its Central Authority may be drawn up or translated.

Article 25

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents referred to in Articles 7 and 17 drawn up in one of those languages shall by declaration specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.

Article 26

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify that declaration by submitting another declaration at any

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time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 27

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance, or approval of, or accession to this Convention, or its making of any declaration under Article 26 shall carry no implication as to the internal distribution of powers within that State.

Article 28

Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude the application of Article 1 in the case of persons who are not nationals of a Contracting State but who have their habitual residence in a Contracting State other than the reserving State or formerly had their habitual residence in the reserving State, if there is no reciprocity of treatment between the reserving State and the State of which the applicants for legal aid are nationals.

Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude -

- (a) the use of English or French, or both, under paragraph 2 of Article 7;
- (b) the application of paragraph 2 of Article 13;
- (c) the application of Chapter II;
- (d) the application of Article 20.

Where a State has made a reservation -

- (e) under paragraph 2 (a) of this Article, excluding the use of both English and French, any other State affected thereby may apply the same rule against the reserving State;
- (f) under paragraph 2 (b) of this Article, any other State may refuse to apply paragraph 2 of Article 13 to persons who are nationals of or habitually resident in the reserving State;
- (g) under paragraph 2 (c) of this Article, any other State may refuse

to apply Chapter II to persons who are nationals of or habitually resident in the reserving State.

No other reservation shall be permitted.

Any Contracting State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have effect on the first day of the third calendar month after the notification.

Article 29

Every Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands of the designation of authorities pursuant to Articles 3, 4 and 16.

It shall likewise inform the Ministry, where appropriate, of the following -

- (a) declarations pursuant to Articles 5, 9, 16, 24, 25, 26 and 33;
- (b) any withdrawal or modification of the above designations and declarations;
- (c) the withdrawal of any reservation.

Article 30

The model forms annexed to this Convention may be amended by a decision of a Special Commission convoked by the Secretary General of the Hague Conference to which all Contracting States and all Member States shall be invited. Notice of the proposal to amend the forms shall be included in the agenda for the meeting.

Amendments adopted by a majority of the Contracting States present and voting at the Special Commission shall come into force for all Contracting States on the first day of the seventh calendar month after the date of their communication by the Secretary General to all Contracting States.

During the period provided for by paragraph 2 any Contracting State may by notification in writing to the Ministry of Foreign Affairs of the Kingdom of the Netherlands make a reservation with respect to the amendment. A Party making such reservation shall until the reservation is withdrawn be treated as a State not a Party to the present Convention with respect to that amendment.

CHAPTER VI
FINAL CLAUSES

Article 31

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session and by non-Member States which were invited to participate in its preparation.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 32

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the twelve months after the receipt of the notification referred to in sub-paragraph 2 of Article 36. Such an objection may also be raised by Member States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 33

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 34

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 31 and 32.

Thereafter the Convention shall enter into force -

(1) for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;

(2) for any territory or territorial unit to which the Convention has been extended in conformity with Article 26 or 33, on the first day of the third calendar month after the notification referred to in that Article.

Article 35

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 34 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 36

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 32, of the following -

(1) the signatures and ratifications, acceptances and approvals referred to in Article 31;

(2) the accessions and objections raised to accessions referred to in Article 32;

(3) the date on which the Convention enters into force in accordance with Article 34;

(4) the declarations referred to in Articles 26 and 33;

(5) the reservations and withdrawals referred to in Articles 28 and 30;

(6) the information communicated under Article 29;

(7) the denunciations referred to in Article 35.

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

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session and to each other State having participated in the preparation of this Convention at this Session.

ANNEX TO THE CONVENTION

Form for transmission of application for legal aid

Convention on International Access to Justice,
signed at The Hague, on the 25th of October 1980.

Identity and address of the transmitting authority	Address of the receiving Central Authority
---	---

The undersigned transmitting authority has the honour to transmit to the receiving Central Authority the attached application for legal aid and its annex (statement concerning the applicant's financial circumstances), for the purpose of Chapter I of the above-mentioned Convention.

Remarks concerning the application and the statement, if any:

Other remarks, if any:

Done at the

Signature and/or stamp

FORM ATTACHED TO THE CONVENTION

Application for legal aid

Convention on International Access to Justice,
signed at The Hague, on the 25th of October 1980.

- 1 Name and address of the applicant for legal aid
- 2 Court or tribunal in which the proceedings have been or will be initiated (if known)
- 3 (a) Subject-matter(s) of proceedings; amount of the claim, if applicable
(b) If applicable, list of supporting documents pertinent to commenced or intended proceedings*
(c) Name and address of the opposing party*
- 4 Any date or time-limit relating to proceedings with legal consequences for the applicant, calling for speedy handling of the application*
- 5 Any other relevant information*
- 6 Done at the
- 7 Applicant's signature

* Delete if inappropriate.

Annex to the application for legal aid

Statement concerning the applicant's financial circumstances

- I Personal situation
 - 8 name (maiden name, if applicable)
 - 9 first name(s)
 - 10 date and place of birth
 - 11 nationality
 - 12 (a) habitual residence (date of commencement of the residence)

(b) former habitual residence (date of commencement and termination of the residence)

- 13 civil status (single, married, widow(er), divorced, separated)
- 14 name and first name(s) of the spouse
- 15 names, first names and dates of birth of children dependent on the applicant
- 16 other persons dependent on the applicant
- 17 supplementary information concerning the family situation

II Financial circumstances

- 18 occupation
- 19 name and address of employer or place of exercise of occupation
- 20 income
- | | | | |
|--|------------------|---------------|---|
| | of the applicant | of the spouse | of the persons dependent on the applicant |
|--|------------------|---------------|---|
- (a) salary (including payments in kind)
- (b) pensions, disability pensions, alimonies, allowances, annuities
- (c) unemployment benefits
- (d) income from non-salaried occupations
- (e) income from securities and floating capital
- (f) income from real property
- (g) other sources of income
- 21 real property
- | | | | |
|--|------------------|---------------|---|
| | of the applicant | of the spouse | of the persons dependent on the applicant |
|--|------------------|---------------|---|
- (please state value(s) and obligations)
- 22 other assets
- | | | | |
|--|------------------|---------------|---|
| | of the applicant | of the spouse | of the persons dependent on the applicant |
|--|------------------|---------------|---|

(securities, sharings in profits, claims, bank accounts, business capital, etc.)

- | | | | | |
|----|---------------------------------------|------------------|---------------|---|
| 23 | debts and other financial obligations | of the applicant | of the spouse | of the persons dependent on the applicant |
|----|---------------------------------------|------------------|---------------|---|
- a) loans (state nature, balance to be paid and annual/monthly repayments)
 - b) maintenance obligations (state monthly payments)
 - c) house rent (including costs of heating, electricity, gas and water)
 - d) other recurring obligations
- 24 income tax and social security contributions for the previous year
- 25 remarks of the applicant
- 26 if applicable, list of supporting documents
- 27 The undersigned, being fully aware of the penalties provided by law for the making of a false statement, declares that the above statement is complete and correct.
- 28 Done at (place)
- 29 the (date)
- 30 (applicant's signature)

Part D

**LUGANO CONVENTION ON JURISDICTION AND THE ENFORCEMENT
OF JUDGEMENTS IN CIVIL AND COMMERCIAL MATTERS**

(16 September, 1988)

Preamble

The High Contracting Parties to this Convention.

Anxious to strengthen in their territories the legal protection of persons therein established.

Considering that it is necessary for this purpose to determine the international jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for securing the enforcement of judgements, authentic instruments and court settlements.

Aware of the links between them, which have been sanctioned in the economic field by the free trade agreements concluded between the European Economic Community and the States members of the European Free Trade Association.

Taking into account the Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgements in civil and commercial matters, as amended by the Accession Conventions under the successive enlargements of the European Communities.

Persuaded that the extension of the principles of that Convention to the State parties to this instrument will strengthen legal and economic co-operation in Europe.

Desiring to ensure as uniform an interpretation as possible of this instrument.

Have in this spirit decided to conclude this Convention and Have agreed as follows:

TITLE I

Scope

Article 1

This Convention shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

The Convention shall not apply to -

1. the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession:
2. bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings:
3. social security:
4. arbitration.

TITLE II

Jurisdiction

Section 1 - General Provisions

Article 2

Subject to the provisions of this Convention, persons domiciled in a Contracting State shall, whatever their nationality, be sued in the courts of that State.

Persons who are not nationals of the State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that State.

Article 3

Persons domiciled in a Contracting State may be sued in the courts of another Contracting State only by virtue of the rules set out in Sections 2 to 6 of this Title.

In particular the following provisions shall not be applicable as against them:

- in Belgium: Article 15 of the civil code (Code civil - Burgerlijk Wetboek) and Article 638 of the judicial code (Code judiciaire - Gerechtelijk Wetboek).
- in Denmark: Article 246 (2) and (3) of the law on civil procedure (Lov om retsens pleje).
- in the Federal Republic of Germany: Article 23 of the code of civil procedure (Zivilprozessordnung).
- in Greece: Article 40 of the code of civil procedure [greek text].
- in France: Articles 14 and 15 of the civil code (Code civil).

- in Ireland: the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland.
- in Iceland: Article 77 of the Civil Proceedings Act [Icelandic text].
- in Italy: Articles 2 and 4, Nos 1 and 2 of the code of civil procedure (Codice di procedura civile).
- in Luxembourg: Articles 14 and 15 of the civil code (Code civil).
- in the Netherlands: Articles 126 (3) and 127 of the code of civil procedure (Wetboek van Burgerlijke Rechtsvordering).
- in Norway: Section 32 of the Civil Proceedings Act (tvistemålsloven).
- in Austria: Article 99 of the Law on Court Jurisdiction (Jurisdiktionsnorm)
- in Portugal: Articles 65 (1) (c), 65 (2) and 65A (c) of the code of civil procedure (Codigo de Processo Civil) and Article 11 of the code of labour procedure (Codigo de Processo de Trabalho).
- in Switzerland: le for du lieu du sequestre/Gerichtsstand des Arrestortes/foro del luogo del sequestro within the meaning of Article 4 of the loi federale sur le droit international prive/Bundesgesetz uber das internationale Privatrecht/legge federale sul diritto internazionale privato.
- in Finland: the second, third and fourth sentences of Section 1 of Chapter 10 of the Code of Judicial Procedure [Finnish text].
- in Sweden: the first sentence of Section 3 of Chapter 10 of Code of Judicial Procedure (Rättegångsbalken).
- in the United Kingdom: the rules which enable jurisdiction to be founded on:
 - (a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or
 - (b) the presence within the United Kingdom of property belonging to the defendant; or
 - (c) the seizure by the plaintiff of property situated in the United Kingdom.

Article 4

If the defendant is not domiciled in a Contracting State, the jurisdiction of the courts of each Contracting State shall, subject to the provisions of Article 16, be determined by the law of that State.

As against such a defendant, any person domiciled in a Contracting State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in the second paragraph of Article 3, in the same way as the nationals of that State.

Section 2 - Special jurisdiction

Article 5

A person domiciled in a Contracting State may, in another Contracting State, be sued:

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, this place shall be the place of business through which he was engaged;

2. in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties;

3. in matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred;

4. as regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings;

5. as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated;

6. in his capacity as settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the Contracting State in which the trust is domiciled;

7. as regards a dispute concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, in the court under the authority of

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which the cargo or freight in question:

- (a) has been arrested to secure such payment, or
- (b) could have been so arrested, but bail or other security has been given: provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage.

Article 6

A person domiciled in a Contracting State may also be sued:

1. where he is one of a number of defendants, in the courts for the place where any one of them is domiciled;
2. as a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely with the object of removing him from the jurisdiction of the court which would be competent in his case;
3. on a counterclaim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending;
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 6A

Where by virtue of this Convention a court of a Contracting State has jurisdiction in actions relating to liability arising from the use or operation of a ship, that court, or any other court substituted for this purpose by the internal law of that State, shall also have jurisdiction over claims for limitation of such liability.

Section 3 - Jurisdiction in matters relating to insurance

Article 7

In matters relating to insurance, jurisdiction shall be determined by this Section, without prejudice to the provisions of Articles 4 and 5 (5).

Article 8

An insurer domiciled in a Contracting State may be sued:

1. in the courts of the State where he is domiciled, or

2. in another Contracting State, in the courts for the place where the policy-holder is domiciled, or

3. if he is a co-insurer, in the courts of a Contracting State in which proceedings are brought against the leading insurer.

An insurer who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

Article 9

In respect of liability insurance or insurance of immovable property, the insurer may in addition be sued in the courts for the place where the harmful event occurred. The same applies if movable and immovable property are covered by the same insurance policy and both are adversely affected by the same contingency.

Article 10

In respect of liability insurance, the insurer may also, if the law of the court permits it, be joined in proceedings which the injured party has brought against the insured.

The provisions of Articles 7, 8 and 9 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.

If the law governing such direct actions provides that the policy-holder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them.

Article 11

Without prejudice to the provisions of the third paragraph of Article 10, an insurer may bring proceedings only in the courts of the Contracting State in which the defendant is domiciled, irrespective of whether he is the policy-holder, the insured or a beneficiary.

The provisions of this Section shall not affect the right to bring a counterclaim in the court in which, in accordance with the Section, the original claim is pending.

Article 12

The provisions of this Section may be departed from only by an agreement on jurisdiction:

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1. which is entered into after the dispute has arisen, or
2. which allows the policy-holder, the insured or a beneficiary to bring proceedings in courts other than those indicated in this Section, or
3. which is concluded between a policy-holder and an insurer, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which has the effect of conferring jurisdiction on the courts of that State even if the harmful event were to occur abroad, provided that such an agreement is not contrary to the law of that State, or
4. which is concluded with a policy-holder who is not domiciled in a Contracting State, except in so far as the insurance is compulsory or relates to immovable property in a Contracting State, or
5. which relates to a contract of insurance in so far as it covers one or more of the risks set out in Article 12A.

Article 12A

The following are the risks referred to in Article 12 (5):

1. any loss of or damage to:
 - (a) sea-going ships, installations situated off-shore or on the high seas, or aircraft, arising from perils which relate to their use for commercial purposes.
 - (b) goods in transit other than passengers' baggage where the transit consists of or includes carriage by such ships or aircraft:
2. any liability, other than for bodily injury to passengers or loss of or damage to their baggage:
 - (a) arising out of the use or operation of ships, installations or aircraft as referred to in (1) (a) above in so far as the law of the Contracting State in which such aircraft are registered does not prohibit agreements on jurisdiction regarding insurance of such risks.
 - (b) for loss or damage caused by goods in transit as described in (1) (b) above:
3. any financial loss connected with the use or operation of ships, installations or aircraft as referred to in (1)(a) above, in particular loss of freight or charter-hire:
4. any risk or interest connected with any of those referred to in (1) to (3) above.

Section 4 - Jurisdiction over consumer contracts

Article 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called the consumer, jurisdiction shall be determined by this Section, without prejudice to the provisions of Articles 4 and 5 (5), if it is:

1. a contract for the sale of goods on instalment credit terms, or
2. a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or
3. any other contract for the supply of goods or a contract for the supply of services, and

(a) in the State of the consumer's domicile the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising, and

(b) the consumer took in that State the steps necessary for the conclusion of the contract.

Where a consumer enters into a contract with a party who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

This Section shall not apply to contracts of transport.

Article 14

A consumer may bring proceedings against the other party to a contract either in the courts of the Contracting State in which that party is domiciled or in the courts of the Contracting State in which he is himself domiciled.

Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Contracting State in which the consumer is domiciled.

These provisions shall not affect the right to bring a counterclaim in the court in which, in accordance with this Section, the original claim is pending.

Article 15

The provisions of this Section may be departed from only by an agreement:

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1. which is entered into after the dispute has arisen, or
2. which allows the consumer to bring proceedings in courts other than those indicated in this Section, or
3. which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which confers jurisdiction on the courts of that State, provided that such an agreement is not contrary to the law of that State.

Section 5 - Exclusive jurisdiction

Article 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

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 tenant is a natural person and neither party is domiciled in the Contracting State in which the property is situated:

2. in proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the decisions of their organs, the courts of the Contracting State in which the company, legal person or association has its seat;

3. in proceedings which have as their object the validity of entries in public registers, the courts of the Contracting State in which the register is kept;

4. in proceedings concerned with the registration or validity of patents, trade marks, designs or other similar rights required to be deposited or registered, the courts of the Contracting State in which the deposit or registration has been applied for, has taken place or is under the terms of an international convention deemed to have taken place;

5. in proceedings concerned with the enforcement of judgements, the courts of the Contracting State in which the judgement has been or is to be enforced.

Section 6 - Prorogation of jurisdiction

Article 17

1. 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.

2. The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

3. Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Articles 12 or 15, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

4. If an agreement conferring jurisdiction was concluded for the benefit of only one of the parties, that party shall retain the right to bring proceedings in any other court which has jurisdiction by virtue of this Convention.

5. 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.

Article 18

Apart from jurisdiction derived from other provisions of this Convention, a

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court of a Contracting State before whom a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered solely to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 16.

Section 7 - Examination as to jurisdiction and admissibility

Article 19

Where a court of a Contracting State is seised of a claim which is principally concerned with a matter over which the courts of another Contracting State have exclusive jurisdiction by virtue of Article 16, it shall declare of its own motion that it has no jurisdiction.

Article 20

Where a defendant domiciled in one Contracting State is sued in a court of another Contracting State and does not enter an appearance, the court shall declare of its own motion that it has no jurisdiction unless its jurisdiction is derived from the provisions of this Convention.

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

The provisions of the foregoing paragraph shall be replaced by those of Article 15 of The Hague Convention of 15 November 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters, if the document instituting the proceedings or notice thereof had to be transmitted abroad in accordance with that Convention.

Section 8 - Lis Pendens - related actions

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 22

Where related actions are brought in the courts of different Contracting

States, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

A court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

For the purposes of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements resulting from separate proceedings.

Article 23

Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall decline jurisdiction in favour of that court.

Section 9 - Provisional, including protective, measures

Article 24

Application may be made to the courts of a Contracting State for such provisional, including protective, measures as may be available under the law of that State, even if, under this Convention, the courts of another Contracting State have jurisdiction as to the substance of the matter.

TITLE III

Recognition and Enforcement

Article 25

For the purposes of this Convention, judgement means any judgement given by a court or tribunal of a Contracting State, whatever the judgement may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

Section 1 - Recognition

Article 26

A judgement given in a Contracting State shall be recognised in the other Contracting States without any special procedure being required.

Any interested party who raises the recognition of a judgement as the principal issue in a dispute may, in accordance with the procedures provided for in Sections 2 and 3 of this Title, apply for a decision that the judgement be

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recognised.

If the outcome of proceedings in a court of a Contracting State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

Article 27

A judgement shall not be recognised:

1. if such recognition is contrary to public policy in the State in which recognition is sought;

2. where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence;

3. if the judgement is irreconcilable with a judgement given in a dispute between the same parties in the State in which recognition is sought;

4. if the court of the State of origin, in order to arrive at its judgement, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts with a rule of the private international law of the State in which the recognition is sought, unless the same result would have been reached by the application of the rules of private international law of that State;

5. if the judgement is irreconcilable with an earlier judgement given in a non-contracting State involving the same cause of action and between the same parties, provided that this latter judgement fulfils the conditions necessary for its recognition in the State addressed.

Article 28

Moreover, a judgement shall not be recognised if it conflicts with the provisions of Sections 3, 4 or 5 of Title II or in a case provided for in Article 59.

A judgement may furthermore be refused recognition in any case provided for in Article 54B (3) or 57 (4).

In its examination of the grounds of jurisdiction referred to in the foregoing paragraphs, the court or authority applied to shall be bound by the findings of fact on which the court of the State of origin based its jurisdiction.

Subject to the provisions of the first and second paragraphs, the jurisdiction of the court of the State of origin may not be reviewed: the test of public policy referred to in Article 27 (1) may not be applied to the rules relating to jurisdiction.

Article 29

Under no circumstances may a foreign judgement be reviewed as to its substance.

Article 30

A court of a Contracting State in which recognition is sought of a judgement given in another Contracting State may stay the proceedings if an ordinary appeal against the judgement has been lodged.

A court of a Contracting State in which recognition is sought of a judgement given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State of origin by reason of an appeal.

Section 2 - Enforcement

Article 31

A judgement 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.

However, in the United Kingdom, such a judgement shall be enforced in England and Wales, in Scotland, or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.

Article 32

1. The application shall be submitted:
 - in Belgium, to the tribunal de premiere instance or rechtbank van eerste aanleg.
 - in Denmark, to the byret.
 - in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht.
 - in Greece, to the [greek text].
 - in Spain, to the Juzgado de Primera Instancia.
 - in France, to the presiding judge of the tribunal de grande instance.
 - in Ireland, to the High Court.

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- in Iceland, to the heradsdomari.
- in Italy, to the corte d'appello.
- in Luxembourg, to the presiding judge of the tribunal d'arrondissement.
- in the Netherlands, to the presiding judge of the arrondissementsrechtbank.
- in Norway, to the herredsrett or byrett as namsrett.
- in Austria, to the Landesgericht or the Kreisgericht.
- in Portugal, to the Tribunal Judicial de Circulo.
- in Switzerland:

(a) in respect of judgements ordering the payment of a sum of money, to the juge de la mainlevee/Rechtsöffnungs - richter / giudice competente a pronunciare sul rigetto dell'opposizione, within the framework of the procedure governed by Article 80 and 81 of the loi federale sur la poursuite pour dettes et la faillite/Bundesgesetz über Schuldbetreibung und Konkurs/Legge federale sulla esecuzione e sul fallimento.

(b) in respect of judgements ordering a performance other than the payment of a sum of money, to the juge cantonal d'exequatur competent / zustandiger kantonaler Vollstreckungsrichter / giudice cantonale competente a pronunciare l'exequatur.

- in Finland, to the ulosotonhaltija/overexekutor.
- in Sweden, to the Svea hovratt.
- in the United Kingdom:

(a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgement to the Magistrates' Court on transmission by the Secretary of State;

(b) in Scotland, to the Court of Session, or in the case of a maintenance judgement to the Sheriff Court on transmission by the Secretary of State;

(c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgement to the Magistrates' Court on transmission by the Secretary of State.

2. The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

Article 33

The procedure for making the application shall be governed by the law of the State in which enforcement is sought.

The applicant must give an address for service of process within the area of jurisdiction of the court applied to. However, if the law of the State in which enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative ad litem.

The documents referred to in Articles 46 and 47 shall be attached to the application.

Article 34

The court applied to shall give its decision without delay: the party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

The application may be refused only for one of the reasons specified in Articles 27 and 28.

Under no circumstances may the foreign judgement be reviewed as to its substance.

Article 35

The appropriate officer of the court shall without delay bring the decision given on the application to the notice of the applicant in accordance with the procedure laid down by the law of the State in which enforcement is sought.

Article 36

If enforcement is authorised, the party against whom enforcement is sought may appeal against the decision within one month of service thereof.

If that party is domiciled in a Contracting State other than that in which the decision authorising enforcement was given, the time for appealing shall be two months and shall run from the date of service, either on him in person or at his residence. No extension of time may be granted on account of distance.

Article 37

1. An appeal against the decision authorising enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:

- in Belgium, with the tribunal de premiere instance or rechtbank van eerste aanleg.
- in Denmark, with the landsret.
- in the Federal Republic of Germany, with the Oberlandsgericht.
- in Greece, with the [greek text];
- in Spain, with the Audiencia Provincial
- in France, with the cour d'appel.
- in Ireland, with the High Court.
- in Iceland, with the heradsdomari:
- in Italy, with the corte d'appello.
- in Luxembourg, with the Cour superieure de justice sitting as a court of civil appeal.
- in the Netherlands, with the arrondissementsrechtbank.
- in Norway, with the lagmannsrett.
- in Austria, with the Landesgericht or the Kreisgericht.
- in Portugal, with the Tribunal da Relacao.
- in Switzerland, with the tribunal cantonal / Kantonsgericht / tribunale cantonale.
- in Finland, with the hovioikeus/hovratt.
- in Sweden, with the Svea hovratt.
- in the United Kingdom:
 - (a) in England and Wales, with the High Court of Justice, or in the case of a maintenance judgement with the Magistrates' Court,
 - (b) in Scotland, with the Court of Session, or in the case of a maintenance judgement with the Sheriff Court.

(c) in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgement with the Magistrates' Court.

2. The judgement given on the appeal may be contested only:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
- in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
- in the Federal Republic of Germany, by a Rechtsbeschwerde,
- in Ireland, by an appeal on Court,
- in Iceland, by an appeal to the Hæstirettur,
- in Norway, by an appeal (kjæremål or anke) to the Høyesteretts Kjæremålsutvalg or Høyesterett,
- in Austria, in the case of an appeal, by a Revisionsrekurs and, in the case of opposition proceedings, by a Berufung with the possibility of a Revision,
- in Portugal, by an appeal on a point of law,
- in Switzerland, by a recours de droit public devant le tribunal federal/staatsrechtliche Beschwerde beim Bundesgericht/ricorso di diritto pubblico davanti al tribunale federale,
- in Finland, by an appeal to the korkein oikeus/högsta domstolen,
- in Sweden, by an appeal to the högsta domstolen,
- in the United Kingdom, by a single further appeal on a point of law.

Article 38

The court with which the appeal under the first paragraph of Article 37 is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgement in the State of origin or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within such an appeal is to be lodged.

Where the judgement was given in Ireland or the United Kingdom, any form of appeal available in the State of origin shall be treated as an ordinary appeal for the purposes of the first paragraph.

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The court may also make enforcement conditional on the provision of such security as it shall determine.

Article 39

During the time specified for an appeal pursuant to Article 36 and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures taken against the property of the party against whom enforcement is sought.

The decision authorising enforcement shall carry with it the power to proceed to any such protective measures.

Article 40

1. If the application for enforcement is refused, the applicant may appeal:
 - in Belgium, to the cour d'appel or hof van beroep,
 - in Denmark, to the landsret,
 - in the Federal Republic of Germany, to the Oberlandes-gericht,
 - in Greece, to the [greek text];
 - in Spain, to the Audiencia Provincial,
 - in France, to the cour d'appel,
 - in Ireland, to the High Court,
 - in Iceland, to the heradsdomari,
 - in Italy, to the corte d'appello,
 - in Luxembourg, to the Cour superieure de justice sitting as a court of civil appeal,
 - in the Netherlands, to the gerechtshof,
 - in Norway, to the lagmannsrett,
 - in Austria, to the Landesgericht or the Kreisgericht,
 - in Portugal, to the Tribunal da Relacao;
 - in Switzerland, to the tribunal cantonal/Kantonsgericht/tribunale cantonale,

- in Finland, to the hovioikeus/hovratt.
- in Sweden, to the Svea hovratt.
- in the United Kingdom:
 - (a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgement to the Magistrates' Court.
 - (b) in Scotland, to the Court of Session, or in the case of a maintenance judgement to the Sheriff Court.
 - (c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgement to the Magistrates' Court.

2. The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

Article 41

A judgement given on an appeal provided for in Article 40 may be contested only:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation.
- in Denmark, by an appeal to the højesteret with the leave of the Minister of Justice.
- in the Federal Republic of Germany, by a Rechtsbeschwerde.
- in Ireland, by an appeal on a point of law to the Supreme Court.
- in Iceland, by an appeal to the Hæstirettur.
- in Norway, by an appeal (kjæremål or anke) to the Høyesteretts kjæremålsutvalg or Høyesterett.
- in Austria, by a Revisionsrekurs.
- in Portugal, by an appeal on a point of law.
- in Switzerland, by a recurs de droit public devant le tribunal fédéral/staatsrechtliche Beschwerde beim Bundesgericht/ricorso di diritto pubblico davanti al tribunale federale.
- in Finland, by an appeal to the korkein oikeus/hogsta domstolen.

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- in Sweden, by an appeal to the hogsta domstolen.
- in the United Kingdom, by a single further appeal on a point of law.

Article 42

Where a foreign judgement has been given in respect of several matters and enforcement cannot be authorised for all of them, the court shall authorise enforcement for one or more of them.

An applicant may request partial enforcement of a judgement.

Article 43

A foreign judgement which orders a periodic payment by way of a penalty shall be enforceable in the State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the State of origin.

Article 44

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 aids or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

However, an applicant who requests the enforcement of a decision given by an administrative authority in Denmark or Iceland in respect of a maintenance order may, in the State addressed, claim the benefits referred to in the first paragraph if he presents a statement from, respectively, the Danish Ministry of Justice or the Icelandic Ministry of Justice to the effect that he fulfils the economic requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

Article 45

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgement given in another Contracting State on the ground that he is a foreign national or that he is not domiciled or resident in the State in which enforcement is sought.

Section 3 - Common provisions

Article 46

A party seeking recognition or applying for enforcement of a judgement shall

produce:

1. a copy of the judgement which satisfies the conditions necessary to establish its authenticity;
2. in the case of a judgement given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document.

Article 47

A party applying for enforcement shall also produce:

1. documents which establish that, according to the law of the State of origin, the judgement is enforceable and has been served;
2. where appropriate, a document showing that the applicant is in receipt of legal aid in the State of origin.

Article 48

If the documents specified in Article 46 (2) and Article 47 (2) are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

If the court so requires, a translation of the document shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

Article 49

No legalisation or other similar formality shall be required in respect of the documents referred to in Articles 46 or 47 or the second paragraph of Article 48, or in respect of a document appointing a representative ad litem.

TITLE IV

Authentic Instruments and Court Settlements

Article 50

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

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in the State addressed.

The instrument produced must satisfy the conditions necessary to establish its authenticity in the State of origin.

The provisions of Section 3 of Title III shall apply as appropriate.

Article 51

A settlement which has been approved by a court in the course of proceedings and is enforceable in the State in which it was concluded shall be enforceable in the State addressed under the same conditions as authentic instruments.

TITLE V

General Provisions

Article 52

In order to determine whether a party is domiciled in the Contracting State whose courts are seised of a matter, the Court shall apply its internal law.

If a party is not domiciled in the State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Contracting State, the court shall apply the law of that State.

Article 53

For the purposes of this Convention, the seat of a company or other legal person or association of natural or legal persons shall be treated as its domicile. However, in order to determine that seat, the court shall apply its rules of private international law.

In order to determine whether a trust is domiciled in the Contracting State whose courts are seised of the matter, the court shall apply its rules of private international law.

TITLE VI

Transnational Provisions

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 judgement or authentic instrument is sought, in the State addressed.

However, judgements 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 recognised 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 the entry into force of this Convention 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 54A

For a period of three years from the entry into force of this Convention for Denmark, Greece, Ireland, Iceland, Norway, Finland and Sweden, respectively, 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 7 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

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(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 the 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 the law on civil procedure (lov om rettens pleje).

7. In Iceland, the expression "arrest" shall be deemed, as regards the maritime claims referred in (5) (o) and (p) of this Article, to include a logbann, where that is the only procedure allowed in respect of such a claim under Chapter III of the law on arrest and injunction (log um kyrretningu og logbann).

TITLE VII

Relationship to the Brussels Convention and to Other Conventions

Article 54B

1. This Convention shall not prejudice the application by the Member States of the European Communities of the Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters, signed at Brussels on 27 September 1968 and of the Protocol on interpretation of that Convention by the Court of Justice, signed at Luxembourg on 3 June 1971, as amended by the Conventions of Accession to the said Convention and the said Protocol by the States acceding to the European Communities, all of these Conventions and the Protocol being hereinafter referred to as the "Brussels Convention".

2. However, this Convention shall in any event be applied:

(a) in matters of jurisdiction, where the defendant is domiciled in the territory of a Contracting State which is not a member of the European Communities, or where Articles 16 or 17 of this Convention confer a jurisdiction on the courts of such a Contracting State;

(b) in relation to a *lis pendens* or to related actions as provided for in Articles 21 and 22, when proceedings are instituted in a Contracting State which is not a member of the European Communities and in a Contracting State which is a member of the European Communities:

(c) in matters of recognition and enforcement, where either the State of origin or the State addressed is not a member of the European Communities.

3. In addition to the grounds provided for in Title III recognition or enforcement may be refused if the ground of jurisdiction on which the judgement has been based differs from that resulting from this Convention and recognition or enforcement is sought against a party who is domiciled in a Contracting State which is not a member of the European Communities, unless the judgement may otherwise be recognised or enforced under any rule of law in the State addressed.

Article 55

Subject to the provisions of the second paragraph of Article 54 and of Article 56, this Convention shall, for the States which are parties to it, supersede the following conventions concluded between two or more of them:

- the Convention between the Swiss Confederation and France on jurisdiction and enforcement of judgements in civil matters, signed at Paris on 15 June 1869.

- the Treaty between the Swiss Confederation and Spain on the mutual enforcement of judgements in civil or commercial matters, signed at Madrid on 19 November 1896.

- the Convention between the Swiss Confederation and the German Reich on the recognition and enforcement of judgements and arbitration awards, signed at Berne on 2 November 1929.

- the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgements, signed at Copenhagen on 16 March 1932.

- the Convention between the Swiss Confederation and Italy on the recognition and enforcement of judgements, signed at Rome on 3 January 1933.

- the Convention between Sweden and the Swiss Confederation on the recognition and enforcement of judgements and arbitral awards signed at Stockholm on 15 January 1936.

- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgements and authentic

instruments relating to maintenance obligations, signed at Vienna on 25 October 1957.

- the Convention between the Swiss Confederation and Belgium on the recognition and enforcement of judgements and arbitration awards, signed at Berne on 29 April 1959.

- the Convention between the Federal Republic of Germany and Austria on the reciprocal recognition and enforcement of judgements, settlements and authentic instruments in civil and commercial matters, signed at Vienna on 6 June 1959.

- the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgements, arbitral awards and authentic instruments in civil and commercial matters, signed at Vienna on 16 June 1959.

- the Convention between Austria and the Swiss Confederation on the recognition and enforcement of judgements, signed at Berne on 16 December 1960.

- the Convention between Norway and the United Kingdom providing for the reciprocal recognition and enforcement of judgements in civil matters, signed at London on 12 June 1961.

- the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgements in civil and commercial matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970.

- the Convention between the Kingdom of the Netherlands and Austria on the reciprocal recognition and enforcement of judgements and authentic instruments in civil and commercial matters, signed at the Hague on 6 February 1963.

- the Convention between France and Austria on the recognition and enforcement of judgements and authentic instruments in civil and commercial matters, signed at Vienna on 15 July 1966.

- the Convention between Luxembourg and Austria on the recognition and enforcement of judgements and authentic instruments in civil and commercial matters, signed at Luxembourg on 29 July 1971.

- the Convention between Italy and Austria on the recognition and enforcement of judgements in civil and commercial matters, of judicial settlements and of authentic instruments, signed at Rome on 16 November 1971.

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- the Convention between Norway and the Federal Republic of Germany on the recognition and enforcement of judgements and enforceable documents, in civil and commercial matters, signed at Oslo on 17 June 1977.

- the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgements in civil matters, signed at Copenhagen on 11 October 1977.

- the Convention between Austria and Sweden on the recognition and enforcement of judgements in civil matters, signed at Stockholm on 16 September 1982.

- the Convention between Austria and Spain on the recognition and enforcement of judgements, settlements and enforceable authentic instruments in civil and commercial matters, signed at Vienna on 17 February 1984.

- the Convention between Norway and Austria on the recognition and enforcement of judgements in civil matters, signed at Vienna on 21 May 1984, and

- the Convention between Finland and Austria on the recognition and enforcement of judgements in civil matters, signed at Vienna on 17 November 1986.

Article 56

The Treaty and the conventions referred to in Article 55 shall continue to have effect in relation to matters to which this Convention does not apply.

They shall continue to have effect in respect of judgements given and documents formally drawn up or registered as authentic instruments before the entry into force of this 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 judgements.

2. This Convention shall not prevent a court of a Contracting State which is party to a convention referred to in the first paragraph from assuming jurisdiction in accordance with that convention, even where the defendant is domiciled in a 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.

3. Judgements given in a Contracting State by a court in the exercise of

jurisdiction provided for in a convention referred to in the first paragraph shall be recognised and enforced in the other Contracting States in accordance with Title III of this Convention.

4. In addition to the grounds provided for in Title III, recognition or enforcement may be refused if the State addressed is not a contracting party to a convention referred to in the first paragraph and the person against whom recognition or enforcement is sought is domiciled in that State, unless the judgements may otherwise be recognised or enforced under any rule of law in the State addressed.

5. Where a convention referred to in the first paragraph to which both the State of origin and the State addressed are parties lays down conditions for the recognition and enforcement of judgements, those conditions shall apply. In any event, the provisions of this Convention which concern the procedure for recognition and enforcement of judgements may be applied.

Article 58

(None)

Article 59

This Convention shall not prevent a Contracting State from assuming, in a convention on the recognition and enforcement of judgements, an obligation towards a third State not to recognise judgements given in other Contracting States against defendants domiciled or habitually resident in the third State where, in cases provided for in Article 4, the judgement could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3.

However, a Contracting State may not assume an obligation towards a third State not to recognise a judgement given in another Contracting State by a court basing its jurisdiction on the presence within that State of property belonging to the defendant, or the seizure by the plaintiff of property situated there:

1. if the action is brought to assert or declare proprietary or possessory rights in that property, seeks to obtain authority to dispose of it, or arises from another issue relating to such property, or

2. if the property constitutes the security for a debt which is the subject-matter of the action.

TITLE VIII

Final Provisions

Article 60

The following may be parties to this Convention:

(a) States which, at the time of the opening of this Convention for signature, are members of the European Communities or of the European Free Trade Association:

(b) States which, after the opening of this Convention for signature, become members of the European Communities or of the European Free Trade Association:

(c) States invited to accede in accordance with Article 62 (1) (b).

Article 61

1. This Convention shall be opened for signature by the States members of the European Communities or of the European Free Trade Association.

2. The Convention shall be submitted for ratification by the signatory States. The instruments of ratification shall be deposited with the Swiss Federal Council.

3. The Convention shall enter into force on the first day of the third month following the date on which two States, of which one is a member of the European Communities and the other a member of the European Free Trade Association, deposit their instruments of ratification.

4. The 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 62

1. After entering into force this Convention shall be open to accession by:

(a) the States referred to in Article 60 (b).

(b) other States which have been invited to accede upon a request made by one of the Contracting States to the depositary State. The depositary State shall invite the State concerned to accede only if, after having communicated the contents of the communications that this State intends to make in accordance with Article 63, it has obtained the unanimous agreement of the signatory States and the Contracting States referred to in Article 60 (a)

and (b).

2. If an acceding State wishes to furnish details for the purposes of Protocol No. 1, negotiations shall be entered into to that end. A negotiating conference shall be convened by the Swiss Federal Council.

3. In respect of an acceding State, the Convention shall take effect on the first day of the third month following the deposit of its instrument of accession.

4. However, in respect of an acceding State referred to in paragraph 1 (a) or (b), the Convention shall take effect only in relations between the acceding State and the Contracting States which have not made any objections to the accession before the first day of the third month following the deposit of the instrument of accession.

Article 63

Each acceding State shall, when depositing its instrument of accession, communicate the information required for the application of Articles 3, 32, 37, 40, 41 and 55 of this Convention and furnish, if need be, the details prescribed during the negotiations for the purposes of Protocol No 1.

Article 64

1. This Convention is concluded for an initial period of five years from the date of its entry into force in accordance with Article 61 (3), even in the case of States which ratify it or accede to it after that date.

2. At the end of the initial five-year period, the Convention shall be automatically renewed from year to year.

3. Upon the expiry of the initial five-year period, any Contracting State may, at any time, denounce the Convention by sending a notification to the Swiss Federal Council.

4. The denunciation shall take effect at the end of the calendar year following the expiry of a period of six months from the date of receipt by the Swiss Federal Council of the notification of denunciation.

Article 65

The following are annexed to this Convention:

- a Protocol No. 1, on certain questions of jurisdiction, procedure and enforcement,
- a Protocol No. 2, on the uniform interpretation of the Convention.

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- a Protocol No. 3, on the application of Article 57.

These Protocols shall form an integral part of the Convention.

Article 66

Any Contracting State may request the revision of this Convention. To that end, the Swiss Federal Council shall issue invitations to a revision conference within a period of six months from the date of the request for revision.

Article 67

The Swiss Federal Council shall notify the States represented at the Diplomatic Conference of Lugano and the States who have later acceded to the Convention of:

- (a) the deposit of each instrument of ratification or accession,
- (b) the dates of entry into force of this Convention in respect of the Contracting States,
- (c) any denunciation received pursuant to Article 64,
- (d) any declaration received pursuant to Article Ia of Protocol No. 1,
- (e) any declaration received pursuant to Article Ib of Protocol No. 1,
- (f) any declaration received pursuant to Article IV of Protocol No. 1,
- (g) any communication made pursuant to Article VI of Protocol No. 1.

Article 68

This Convention, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Icelandic, Irish, Italian, Norwegian, Portuguese, Spanish and Swedish languages, all fourteen texts being equally authentic, shall be deposited in the archives of the Swiss Federal Council. The Swiss Federal Council shall transmit a certified copy to the Government of each State represented at the Diplomatic Conference of Lugano and to the Government of each acceding State.

**Protocol No. 1 on
Certain Questions of Jurisdiction, Procedure and Enforcement**

The High Contracting Parties have agreed upon the following provisions, which shall be annexed to the Convention:

Article I

Any person domiciled in Luxembourg who is sued in a court of another Contracting State pursuant to Article 5 (1) may refuse to submit to the jurisdiction of that court. If the defendant does not enter an appearance the court shall declare of its own motion that it has no jurisdiction.

An agreement conferring jurisdiction, within the meaning of Article 17, shall be valid with respect to a person domiciled in Luxembourg only if that person has expressly and specifically so agreed.

Article Ia

1. Switzerland reserves the right to declare, at the time of depositing its instrument of ratification, that a judgement given in another Contracting State shall be neither recognised nor enforced in Switzerland if the following conditions are met:

(a) the jurisdiction of the court which has given the judgement is based only on Article 5 (1) of this Convention, and

(b) the defendant was domiciled in Switzerland at the time of the introduction of the proceedings: for the purposes of this Article, a company or other legal person is considered to be domiciled in Switzerland if it has its registered seat and the effective centre of activities in Switzerland, and

(c) the defendant raises an objection to the recognition or enforcement of the judgement in Switzerland, provided that he has not waived the benefit of the declaration foreseen under this paragraph.

2. This reservation shall not apply to the extent that at the time recognition or enforcement is sought a derogation has been granted from Article 59 of the Swiss Federal Constitution. The Swiss Government shall communicate such derogations to the signatory States and the acceding States.

3. This reservation shall cease to have effect on 31 December 1999.

It may be withdrawn at any time.

Article Ib

Any Contracting State may, by declaration made at the time of signing or of

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deposit of its instrument of ratification or of accession, reserve the right, notwithstanding the provisions of Article 28, not to recognise and enforce judgements given in the other Contracting States if the jurisdiction of the court of the State of origin is based, pursuant to Article 16 (1) (b), exclusively on the domicile of the defendant in the State of origin, and the property is situated in the territory of the State which entered the reservation.

Article II

Without prejudice to any more favourable provisions of national laws, persons domiciled in a Contracting State who are being prosecuted in the criminal courts of another Contracting State of which they are not nationals for an offence which was not intentionally committed may be defended by persons qualified to do so, even if they do not appear in person.

However, the court seised of the matter may order appearance in person: in the case of failure to appear, a judgement given in the civil action without the person concerned having had the opportunity to arrange for his defence need not be recognised or enforced in the other Contracting States.

Article III

In proceedings for the issue of an order for enforcement, no charge, duty or fee calculated by reference to the value of the matter in issue may be levied in the State in which enforcement is sought.

Article IV

Judicial and extrajudicial documents drawn up in one Contracting State which have to be served on persons in another Contracting State shall be transmitted in accordance with the procedures laid down in the conventions and agreements concluded between the Contracting States.

Unless the State in which service is to take place objects by declaration to the Swiss Federal Council, such documents may also be sent by the appropriate public officers of the State in which the document has been drawn up directly to the appropriate public officers of the State in which the addressee is to be found. In this case the officer of the State of origin shall send a copy of the document to the officer of the State applied to who is competent to forward it to the addressee. The document shall be forwarded in the manner specified by the law of the State applied to. The forwarding shall be recorded by a certificate sent directly to the officer of the State of origin.

Article V

The jurisdiction specified in Articles 6 (2) and 10 in actions on a warranty or guarantee or in any other third party proceedings may not be resorted to in the

Federal Republic of Germany, in Spain, in Austria and in Switzerland. Any person domiciled in another Contracting State may be sued in the courts:

- of the Federal Republic of Germany, pursuant to Articles 68, 72, 73 and 74 of the code of civil procedure (Zivilprozessordnung) concerning third-party notices:
- of Spain, pursuant to Article 1482 of the civil code:
- of Austria, pursuant to Article 21 of the code of civil procedure (Zivilprozessordnung) concerning third-party notices:
- of Switzerland, pursuant to the appropriate provisions concerning third-party notices of the cantonal codes of civil procedure.

Judgements given in the other Contracting States by virtue of Article 6 (2) or Article 10 shall be recognised and enforced in the Federal Republic of Germany, in Spain, in Austria and in Switzerland in accordance with Title III. Any effects which judgements given in these States may have on third parties by application of the provisions in the preceding paragraph shall also be recognised in the other Contracting States.

Article Va

In matters relating to maintenance, the expression court includes the Danish, Icelandic and Norwegian administrative authorities.

In civil and commercial matters, the expression court includes the Finnish ulosotonhaltija/overexekutor.

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, in Iceland, in Norway, in Portugal or in Sweden 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.

Article Vc

(None).

Article Vd

Without prejudice to the jurisdiction of the European Patent Office under the Convention on the grant of European patents, signed at Munich on 5 October 1973, the courts of each Contracting State shall have exclusive jurisdiction, regardless of domicile, in proceedings concerned with the registration or validity of any European patent granted for that State which is not a Community patent by virtue of the provision of Article 86 of the Convention for the European patent for the common market, signed at Luxembourg on 15 December 1975.

Article VI

The Contracting States shall communicate to the Swiss Federal Council the text of any provisions of their laws which amend either those provisions of their laws mentioned in the Convention or the lists of courts specified in Section 2 of Title III.

**Protocol No. 2 on the
Uniform Interpretation of the Convention**

Preamble

- The High Contracting Parties.
- Having regard to Article 65 of this Convention.
- Considering the substantial link between this Convention and the Brussels Convention.
- Considering that the Court of Justice of the European Communities by virtue of the Protocol of 3 June 1971 has jurisdiction to give rulings on the interpretation of the provisions of the Brussels Convention.
- Being aware of the rulings delivered by the Court of Justice of the European Communities on the interpretation of the Brussels Convention up to the time of signature of this Convention.
- Considering that the negotiations which led to the conclusion of the Convention were based on the Brussels Convention in the light of these rulings.
- Desiring to prevent, in full deference to the independence of the courts, divergent interpretations and to arrive at as uniform an interpretation as possible of the provisions of the Convention, and of these provisions and those of the Brussels Convention which are substantially reproduced in this

Convention,

Have agreed as follows:

Article 1

The courts of each Contracting State shall, when applying and interpreting the provisions of the Convention, pay due account to the principles laid down by any relevant decisions delivered by courts of the other Contracting States concerning provisions of this Convention.

Article 2

1. The Contracting Parties agree to set up a system of exchange of information concerning judgements delivered pursuant to this Convention as well as relevant judgements under the Brussels Convention. This system shall comprise:

- transmission to a central body by the competent authorities of judgements delivered by courts of last instance and the Court of Justice of the European Communities as well as judgements of particular importance which have become final and have been delivered pursuant to this Convention or the Brussels Convention;

- classification of these judgements by the central body including, as far as necessary, the drawing up and publication of translations and abstracts;

- communication by the central body of the relevant documents to the competent national authorities of all signatories and acceding States to the Convention and to the Commission of the European Communities.

2. The central body is the Registrar of the Court of Justice of the European Communities.

Article 3

1. A standing Committee shall be set up for the purposes of this Protocol.

2. The Committee shall be composed of representatives appointed by each signatory and acceding State.

3. The European Communities (Commission, Court of Justice and General Secretariat of the Council) and the European Free Trade Association may attend the meetings as observers.

Article 4

1. At the request of a Contracting Party, the depositary of the Convention shall convene meetings of the Committee for the purpose of exchanging views on the functioning of the Convention and in particular on

- the development of the case-law as communicated under the first paragraph first indent of Article 2.
- the application of Article 57 of the Convention.

2. The Committee, in the light of these exchanges, may also examine the appropriateness of starting on particular topics a revision of the Convention and make recommendations.

Protocol No. 3 on the Application of Article 57

The High Contracting Parties have agreed as follows:

1. For the purposes of the Convention, provisions which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgements and which are or will be contained in acts of the Institutions of the European Communities shall be treated in the same way as the conventions referred to in paragraph 1 of Article 57.

2. If one Contracting State is of the opinion that a provision contained in an act of the Institutions of the European Communities is incompatible with the Convention, the Contracting States shall promptly consider amending the Convention pursuant to Article 66, without prejudice to the procedure established by Protocol No. 2.

Declaration by the Representatives of the Governments of the State Signatories to the Lugano Convention which are Members of the European Communities on Protocol No. 3 on the Application of Article 57 of the Convention

Upon signature of the Convention on jurisdiction and the enforcement of judgements in civil and commercial matters done at Lugano on 16 September 1988,

The Representatives of the Governments of the member states of the European Communities,

Taking into account the undertakings entered into vis-a-vis the member states of the European Free Trade Association,

Anxious not to prejudice the unity of the legal system set up by the Convention.

Declare that they will take all measures in their power to ensure, when Community acts referred to in paragraph 1 of Protocol No. 2 on the application of Article 57 are being drawn up, respect for the rules of jurisdiction and recognition and enforcement of judgements established by the Convention.

Declaration by the Representatives of the Governments of the States Signatories to the Lugano Convention which are Members of the European Communities

Upon signature of the Convention on jurisdiction and the enforcement of judgements in civil and commercial matters done at Lugano on 16 September 1988.

The Representatives of the Governments of the member states of the European Communities

Declare that they consider as appropriate that the Court of Justice of the European Communities, when interpreting the Brussels Convention, pay due account to the rulings contained in the case law of the Lugano Convention.

Declaration by the Representatives of the Governments of the States Signatories to the Lugano Convention which are Members of the European Free Trade Association

Upon signature of the Convention on jurisdiction and the enforcement of judgements in civil and commercial matters done at Lugano on 16 September 1988.

The Representatives of the Governments of the member states of the European Free Trade Association

Declare that they consider as appropriate that their courts, when interpreting the Lugano Convention, pay due account to the rulings contained in the case law of the Court of Justice of the European Communities and of courts of the Member States of the European Communities in respect of provisions of the Brussels Convention which are substantially reproduced in the Lugano Convention.

SECOND SCHEDULE

Declarations and Oppositions

(Articles 5, 8, 21 and 42)

1. The Government of Malta declares, pursuant to Article 8 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (The Hague, 1965) that it is opposed to service of documents within the territory of Malta effected directly through the diplomatic or consular agents of other Contracting States, in accordance with the first paragraph of the said Article 8, other than upon the national of the Contracting State effecting such service.

2. The Government of Malta declares, pursuant to Article 10 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (The Hague, 1965), that it is opposed to the use by other Contracting States of any of the methods of transmission and service of documents mentioned in the said Article 10 within its territory.

THIRD SCHEDULE

(Articles 10, 12 and 13)

Part A

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS ORIGINATING OUTSIDE MALTA

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, on the 15th of November 1965.

Identity and address	Address of receiving
of the applicant	authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.

(identity and address)

.....
.....

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:

.....
.....

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

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List of documents

.....
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.....
.....
.....
.....
.....
.....

Done at the

Signature and/or stamp.

* Delete if inappropriate.

Part B

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS ORIGINATING IN MALTA

Request for Service Abroad of Judicial or Extrajudicial Documents

Identity and address of the applicant	Address of receiving authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with article 12 of the Legal Procedures (Ratification of Conventions) Act, 2001 requests prompt service of one copy thereof on the addressee, i.e.

(identity and address)

.....
.....

- (a) in accordance with the provisions of article 12 of the Act *.
- (b) in accordance with the following particular method *.

.....
.....

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....
.....
.....

Done at the

Signature and/or stamp

* Delete if inappropriate.

(If they are not in the English language, the request and the documents must be accompanied by two certified translations thereof in the English language.)

Reverse of the request

CERTIFICATE

(Article 13)

The undersigned authority has the honour to certify, in conformity with article 13 of the Act.

(1) that the document has been served*

- the (date)

.....

- at (place, street, number)

.....

.....

- - in one of the following methods:

- (a) in accordance with the provisions of article 12 of the Act*.
- (b) in accordance with the following particular method*:

.....

.....

The documents referred to in the request have been delivered to:

- (identity and description of person)

•

.....

- relationship to the addressee (family, business or other):

•

.....

.....

(2) that the document has not been served, by reason of the following facts*.

.....

.....

.....

In conformity with article 14 of the Act, the applicant is requested to pay or reimburse the costs and expenses detailed in the attached statement.

Annexes

Documents returned:

.....
.....
.....

In appropriate cases, documents establishing the service:

.....
.....

Done at the

Signature and/or stamp

* Delete if inappropriate.

Summary of the Document to be Served

(Article 12(2))

Name and address of the requesting authority/officer/person:

.....
.....

Particulars of the parties*:

.....
.....

Judicial Document**

Nature and purpose of the document:

.....
.....

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

.....
.....

Date and place of entering appearance**:

.....
.....

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Court which has given judgement**:

.....
.....

Date of judgement**:

.....

Time-limits stated in the document**:

.....

Extrajudicial Document**

Nature and purpose of the document:

.....
.....

Time-limits stated in the document**:

.....
.....

* If appropriate, identity and address of the person interested in the transmission of the document.
**Delete if inappropriate.

FOURTH SCHEDULE

(Articles 22 and 42)

Reservation

The Government of Malta declares, pursuant to Article 28 of the Convention on the International Access to Justice (The Hague, 1980), that it excludes the application of Article 1 of the said Convention in the case of persons who are not nationals of a Contracting State but who have their habitual residence in a Contracting State other than Malta or formerly had their habitual residence in Malta, if there is no reciprocity of treatment between Malta and the State of which the applicants for legal aid are nationals.

FIFTH SCHEDULE

(Article 44)

Consequential amendments

First Column	Second Column
1. Rules of Court made by Govt. Notice 381 of 1911 consolidated in S.L. 12.02	Rule 3 and Form 3 in the Schedule to the Rules shall be deleted.
2. Rules of Court made by Govt. Notice 423 of 1930 - consolidated in S.L. 12.02	Rule 5 shall be deleted and substituted by the following: "5. Where a request is made for the application of a special method of procedure, the Court of Appeal shall order such method of procedure to be followed, unless this is incompatible with the internal law of the State of execution or it is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties."
3. Code of Organization and Civil Procedure - Cap. 12.	<p>(a) in article 742(2), for the words "The jurisdiction of the courts", there shall be substituted the words "Save as otherwise expressly provided by law, and in particular by Part V of the Legal Procedures (Ratification of Conventions) Act, 2001, the jurisdiction of the courts";</p> <p>(b) in article 743(1), for the words "The party against whom the defendant", there shall be substituted the words "Subject to the provisions of subarticle (3), the party against whom the defendant";</p> <p>(c) in article 743, immediately after subarticle (2) thereof, there shall be inserted the following new subarticle: "(3) In cases governed by Part V of the Legal Procedures (Ratification of Conventions) Act, 2001, the provisions thereof shall apply."; and</p> <p>(d) article 826 shall be deleted and substituted by the following new article:</p>

"826. Saving the provisions of the British Judgements (Reciprocal Enforcement) Act, the Child Abduction and Custody Act, 1999, and the Legal Procedures (Ratification of Conventions) Act, 2001, and of any other special law making special provision to particular kinds of judgements or to judgements emanating from particular jurisdictions, any judgement delivered by a competent court outside Malta and constituting a *res judicata* may be enforced by the competent court in Malta, in the same manner as judgements delivered in Malta, upon a writ of summons containing a demand that the enforcement of such judgement be ordered."

4. Consumer Affairs
Act - Cap. 378.

(a) In article 16(1), for the words "respectively.", there shall be substituted the words "respectively, with jurisdiction to hear and determine claims in accordance with the relevant provisions of Part V of the Legal Procedures (Ratification of Conventions) Act, 2001, the provisions of article 742(1) of the Code of Organization and Civil Procedure, in so far as applicable, and the following provisions of this article." and

(b) immediately after subarticle (5) of the said article 16, there shall be added the following new subarticles:

"(6) Where the transaction to which the claim refers is concluded between a person domiciled in Malta and a person domiciled outside Malta, and the jurisdiction of the respective tribunals in Malta and in Gozo cannot be ascertained in accordance with the preceding subarticles of this article, jurisdiction shall vest in the Consumer Affairs Tribunal (Malta).

(7) For the purposes of subarticle (6), the term "domiciled" shall be construed within the meaning assigned to the term in the Legal Procedures (Ratification of Conventions) Act, 2001."

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Passed by the House of Representatives at Sitting No. 719 of the 9th April,
2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives