

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1979 Nr. 57

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A. TITEL

*Protocol betreffende de uitlegging door het Hof van Justitie van het Verdrag van 27 september 1968 betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken, met een Gemeenschappelijke Verklaring;  
Luxemburg, 3 juni 1971*

B. TEKST

De Nederlandse en de Franse tekst van het Protocol zijn geplaatst in *Trb.* 1971, 140.

Voor de Engelse tekst van het Protocol en de Gemeenschappelijke Verklaring zie rubriek J van dit Tractatenblad.

De tekst van het onderhavige Protocol en de Gemeenschappelijke Verklaring is gewijzigd en aangevuld bij het in rubriek J hieronder genoemde Verdrag van 9 oktober 1978.

D. PARLEMENT

Zie *Trb.* 1975, 85.

E. BEKRACHTIGING

Zie *Trb.* 1975, 85.

F. TOETREDING

In het in rubriek J hieronder genoemde Verdrag van 9 oktober 1978 is de mogelijkheid van toetreding tot het onderhavige Protocol voorzien voor de aldaar genoemde Staten.

G. INWERKINGTREDING

Zie *Trb.* 1975, 85.

J. GEGEVENS

Zie *Trb.* 1971, 140 en *Trb.* 1975, 85.

Voor het op 18 april 1951 te Parijs tot stand gekomen Protocol betreffende het Statuut van het Hof van Justitie zie ook, laatstelijk, *Trb.* 1976, 77.

Voor het op 25 maart 1957 te Rome tot stand gekomen Verdrag tot oprichting van de Europese Economische Gemeenschap zie ook, laatstelijk, *Trb.* 1976, 78.

Voor het op 27 september 1968 te Brussel tot stand gekomen Verdrag betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken, met Protocol en Gemeenschappelijke Verklaring, zie ook *Trb.* 1979, 56.

Op 9 oktober 1978 is te Brussel tot stand gekomen het Verdrag inzake de toetreding van het Koninkrijk Denemarken, Ierland en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland tot het Verdrag betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken en tot het onderhavige Protocol. De Nederlandse tekst van dat Verdrag is geplaatst in *Trb.* 1978, 175, de Engelse en de Franse tekst in *Trb.* 1979, 58. Bij het Verdrag is de Engelse tekst van het onderhavige Protocol en de Gemeenschappelijke Verklaring vastgesteld, welke als volgt luidt:

**Protocol on the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters**

The High Contracting Parties to the Treaty establishing the European Economic Community,

Having regard to the Declaration annexed to the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Brussels on 27 September 1968,

Have decided to conclude a Protocol conferring jurisdiction on the Court of Justice of the European Communities to interpret that Convention, and to this end have designated as their Plenipotentiaries:

His Majesty the King of the Belgians:

Mr Alfons Vranckx,  
Minister of Justice;

The President of the Federal Republic of Germany:

Mr Gerhard Jahn,  
Federal Minister of Justice;

The President of the French Republic:

Mr René Pleven,  
Keeper of the Seals,  
Minister of Justice;

The President of the Italian Republic:

Mr Erminio Pennacchini,  
Under-Secretary of State in the Ministry of Justice;

His Royal Highness the Grand Duke of Luxembourg:

Mr Eugène Schaus,  
Minister of Justice,  
Deputy Prime Minister;

Her Majesty the Queen of the Netherlands:

Mr C. H. F. Połak,  
Minister of Justice;

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

Have agreed as follows:

#### Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and of the Protocol annexed to that Convention, signed at Brussels on 27 September 1968, and also on the interpretation of the present Protocol.

#### Article 2

The following courts may request the Court of Justice to give preliminary rulings on questions of interpretation:

1. in Belgium: la Cour de Cassation – het Hof van Cassatie and le Conseil d'État – de Raad van State,

in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,

in France: la Cour de Cassation and le Conseil d'État,

in Italy: la Corte Suprema di Cassazione,

in Luxembourg: la Cour supérieure de Justice, when sitting as Cour de Cassation,

in the Netherlands: de Hoge Raad;

2. the courts of the Contracting States when they are sitting in an appellate capacity;

3. in the cases provided for in Article 37 of the Convention, the courts referred to in that Article.

#### Article 3

1. Where a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 is raised in a case pending before one of the courts listed in Article 2 (1), that court shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. Where such a question is raised before any court referred to in Article 2 (2) or (3), that court may, under the conditions laid down in paragraph 1, request the Court of Justice to give a ruling thereon.

#### Article 4

1. The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 if judgments given by courts of that State conflict with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in Article 2 (1) or (2). The provisions of this paragraph shall apply only to judgments which have been *res judicata*.

2. The interpretation given by the Court of Justice in response to such a request shall not affect the judgments which gave rise to the request for interpretation.

3. The Procurators-General of the Courts of Cassation of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

5. No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

#### Article 5

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the Convention and the other instruments referred to in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.

#### Article 6

This Protocol shall apply to the European territories of the Contracting States, to the French overseas departments and to the French overseas territories.

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Protocol or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Protocol shall be applicable to Surinam and the Netherlands Antilles.

#### Article 7

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

#### Article 8

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step; provided that it shall at the earliest enter into force at the same time as the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters.

## Article 9

The Contracting States recognize that any State which becomes a member of the European Economic Community, and to which Article 63 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters applies, must accept the provisions of this Protocol, subject to such adjustments as may be required.

## Article 10

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

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) any designation received pursuant to Article 4 (3);
- (d) any declaration received pursuant to the second paragraph of Article 6.

## Article 11

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in Article 2 (1).

## Article 12

This Protocol is concluded for an unlimited period.

## Article 13

Any Contracting State may request the revision of this Protocol. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

## Article 14

This Protocol, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

DONE at Luxembourg this third day of June in the year one thousand nine hundred and seventy-one.

For His Majesty the King of the Belgians,  
(sd.) ALFONS VRANCKX

For the President of the Federal Republic of Germany,  
(sd.) GERHARD JAHN

For the President of the French Republic,  
(sd.) RENÉ PLEVEN

For the President of the Italian Republic,  
(sd.) ERMINIO PENNACCHINI

For His Royal Highness the Grand Duke of Luxembourg,  
(sd.) EUGÈNE SCHAUS

For Her Majesty the Queen of the Netherlands,  
(sd.) C. H. F. POLAK

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### Joint Declaration

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

On signing the Protocol on the Interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters,

Desiring to ensure that the provisions of that Protocol are applied as effectively and as uniformly as possible,

Declare themselves ready to organize, in co-operation with the Court of Justice, an exchange of information on the judgments given by the courts referred to in Article 2 (1) of that Protocol in application of the Convention and the Protocol of 27 September 1968.

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Voor het onderhavige Protocol en de Gemeenschappelijke Verklaring zie ook *Pb. EG L 204* van 2 augustus 1975, blz. 28 e.v.

In *Pb. EG L 304* van 30 oktober 1978 is op blz. 97 e.v. de tekst van het onderhavige Protocol, zoals gewijzigd door het Toetredingsverdrag van 9 oktober 1978, afgedrukt.

Uitgegeven de *tweede* april 1979.

*De Minister van Buitenlandse Zaken,*  
C. A. VAN DER KLAUW