

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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**JAARGANG 2009 Nr. 223**

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A. TITEL

*Verdrag betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken; (met Protocollen en Verklaringen)  
Lugano, 16 september 1988*

B. TEKST

De Nederlandse, de Franse en de Engelse tekst van het Verdrag, met Protocollen en Verklaringen, zijn geplaatst in *Trb.* 1989, 58.

Voor correcties in de Nederlandse en de Engelse tekst zie *Trb.* 1992, 72 en *Trb.* 1998, 73.

D. PARLEMENT

Zie *Trb.* 1991, 179.

E. PARTIJGEGEVENS

Zie *Trb.* 1989, 58. Toetreding tot het Verdrag is voorzien in zijn artikel 62.

Partij	Onder-tekening	Ratificatie	Type*	In werking	Opzeg-ging	Buiten werking
België	16-09-88	31-07-97	R	01-10-97		01-01-10
Denemarken	16-09-88	20-12-95	R	01-03-96		01-01-10
Duitsland	23-10-89	14-12-94	R	01-03-95		01-01-10
Finland	30-11-88	27-04-93	R	01-07-93		01-01-10
Frankrijk	14-12-89	03-08-90	R	01-01-92		01-01-10

Partij	Onder- tekening	Ratificatie	Type*	In werking	Opzeg- ging	Buiten werking
Griekenland	16-09-88	11-06-97	R	01-09-97		01-01-10
Ierland	18-08-93	27-09-93	R	01-12-93		01-01-10
IJsland	16-09-88	11-09-95	R	01-12-95		
Italië	16-09-88	22-09-92	R	01-12-92		01-01-10
Luxemburg	16-09-88	05-11-91	R	01-02-92		01-01-10
<b>Nederlanden, het Koninkrijk der</b> – Nederland – Ned. Antillen – Aruba	07-02-89	23-01-90 – –	R	01-01-92 – –		01-01-10 – –
Noorwegen	16-09-88	02-02-93	R	01-05-93		01-01-10
Oostenrijk	26-02-92	27-06-96	R	01-09-96		01-01-10
Polen		01-11-99	T	01-02-00		01-01-10
Portugal	16-09-88	14-04-92	R	01-07-92		01-01-10
Spanje	19-01-94	30-08-94	R	01-11-94		01-01-10
Verenigd Koninkrijk, het	18-09-89	05-02-92	R	01-05-92		01-01-10
Zweden	16-09-88	09-10-92	R	01-01-93		01-01-10
Zwitserland	16-09-88	18-10-91	R	01-01-92		
* O=Ondertekening zonder voorbehoud of vereiste van ratificatie, R= Bekrchtiging, aanvaarding, goedkeuring of kennisgeving, T=Toetreding, VG=Voortgezette gebondenheid, NB=Niet bekend						

## Uitbreidingen

### Verenigd Koninkrijk, het

Uitgebreid tot	In werking	Buiten werking
Gibraltar	01-10-1998	

## Verklaringen, voorbehouden en bezwaren

Denemarken, 20 december 1995

Until further notice, the Convention is not applicable to the Faeroe Islands or Greenland.

Information required by article 63:

With reference to article 3: Article 246(2) and (3) of the law on judicial organisation and civil and criminal procedure.

With reference to article 32: to the City Court (byret) of the city concerned.

With reference to article 37(1): with the High Court (landsret).

With reference to article 37(2): by an appeal to the Supreme Court (højesteret), with the leave of the Minister of Justice.

With reference to article 40: to the High Court (landsret).

With reference to article 41: by an appeal to the Supreme Court (højesteret), with the leave of the Minister of Justice.

With reference to article 55: the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgments, signed at Copenhagen on 16 March 1932, and the Convention between Denmark, Finland, Iceland, Norway and Sweden on the recognition and enforcement of judgments in civil matters, signed at Copenhagen on 11 October 1977.

In Denmark, the competent authority referred to in article 2 of Protocol No. 2 is the Minister of Justice.

Duitsland, 14 december 1994

Objection foreseen in Article IV, paragraph 2, of Protocol No. 1 on certain questions of jurisdiction, procedure and enforcement.

Finland, 30 november 1988

The application foreseen in Article 32 shall be submitted to the “ulosotonhaltija/överexecutor”.

Finland, 24 augustus 1993

Because of the changes in the Finnish legislation the application under Article 32 of the Convention shall, as from the entry into force of the Convention in respect of Finland on the 1st of July 1993, be submitted in Finland to the “yleinen alioikeus/allmän underrätt” according to the Act on the Entry into Force of Acts Relative to the Reform of Courts of First Instance (Act 1417/92).

Furthermore the name of the Court will be changed as from the 1st December 1993 into “käräjäoikeus/tingsrätt” according to the Act on the Amendment of the Code of Legal Procedure (Act 354/87).

Finland, 29 september 2009

Article 3(2) of the Lugano Convention contains a list of certain provisions that shall in particular not be applicable to defendants domiciled in another Contracting State. According to the 15th indent in Finland: the second, third and fourth sentences of Section 1 of Chapter 10 of the Code of Judicial Procedure (oikeudenkäymiskaari/rättegångsbalken) shall not be applied.

According to Section 1 of Chapter 10 of the Code of Judicial Procedure a person who has no domicile in Finland shall be summoned to the court

of the locality where he/she is found or where he has property in the country. If a Finnish citizen is living abroad, he/she may also be summoned to the court of the locality where he/she last had a domicile in Finland. A citizen of a foreign State who does not have home and domicile in Finland may, in the absence of separate provisions regarding the citizens of said State, be summoned to the court in Finland where he/she is found or where he/she has property.

The provisions on jurisdiction of Chapter 10 have been revised in Act 135/2009 on altering the Code of Judicial Procedure. The aforementioned Act has entered into force 1.9.2009. Within the revised Chapter 10 the congruent legislation to the sentences mentioned in the 15th indent of Article 3(2) of the Lugano Convention is found in paragraphs 1 and 2 of Section 18(1). According to the aforementioned paragraphs, if otherwise no court would have jurisdiction in the case, a case that concerns a claim to be brought against a natural person may be considered by the district court with jurisdiction for the place where the defendant resides or last had his or her domicile or habitual residence and a case that concerns ordering the defendant to pay a specified amount of money may be considered by the district court with jurisdiction for the place where the defendant has distrainable property.

Due to the aforementioned changes the 15th indent of Article 3(2) of the Lugano Convention should be altered to read as follows:

in Finnish: “– Suomessa: oikeudenkäymiskaaren 10 luvun 18§:n 1 momentin 1 ja 2 kohtaa”;

in Swedish: “– i Finland: 10 kap. 18 § 1 mom. 1 och 2 punkten i rättegångsbalken”;

in English: “– in Finland: paragraphs 1 and 2 of Section 18(1) of Chapter 10 of the Code of Judicial Procedure (oikeudenkäymiskaari/rättegångsbalken)”.

(The Finnish and Swedish versions of Law 135/2009 amending the Code of Judicial Procedure, and the unofficial translation of this law into English, are available on request from the depositary.)

Frankrijk, 3 augustus 1990

In accordance with article I of Protocol No. 1, France reserves the right not to recognise and enforce judgments 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 French Republic.

Griekenland, 11 juni 1997

In accordance with article I of Protocol No. 1, Greece reserves the right not to recognise and enforce judgments 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 Greek territory.

IJsland, 11 september 1995

Pursuant to Article VI of Protocol No. 1, Article 77 of the Civil Proceedings Act no. 85/1936, to which is referred in Article 3, has been repealed and replaced by Article 32, paragraph 4 of the new Civil Proceedings Act no. 91/1991.

IJsland, 22 september 1997

Chapter III of the law on arrest and injunction (lög um kyrrsetningu og lögbann) to which Article 54A (7) refers has been repealed and replaced by Chapter IV of the law on arrest and injunction (lög um kyrrsetningu og lögbann) No. 31 from 23 April 1990, which entered into force on 1 July 1992.

Italië, 22 september 1992

Articles 2 and 4, Nos. 1 and 2 of the Italian Code of Civil Procedure (Codice di procedura civile) (referred to in article 3 of the Convention) were repealed by section 73 of Law no. 218 of 31 May 1995 reforming the Italian system of private international law. Consequently article 3 of the Convention should refer, not to the repealed articles, but rather to articles 3 and 4 of Law no. 218 of 31 May 1995, which shall not be applicable as against persons domiciled in a Contracting State in order to prevent the application of the Convention in question (article VI of Protocol No. 1).

Oostenrijk, 27 juni 1996

Objection foreseen in Article IV, paragraph 2, of Protocol No. 1 on certain questions of jurisdiction, procedure and enforcement.

According to Article 32, paragraph 1, the application shall be submitted, in Austria, to the "Landesgericht" or the "Kreisgericht". According to Article 37, paragraph 1, and 40, paragraph 1, an appeal shall be lodged in Austria with the "Landesgericht" or the "Kreisgericht".

Pursuant to the modification of paragraph 82 of the "Exekutionsordnung" by the "Exekutionsordnungs-Novelle" of 1995 ("Bundesgesetz" of August 8, 1995, BGBl No. 519), the "Bezirksgericht" is competent, as of October 1, 1995, to declare foreign titles enforceable. Appeals against decisions will equally be lodged with the "Bezirksgericht" (Article VI of Protocol No. 1).

Polen, 1 november 1999

Reservation stipulated by Poland pursuant to Article 1 of Protocol No. 1 on certain questions of jurisdiction, procedure and enforcement.

The Republic of Poland reserves the right not to recognise or enforce judgments given in 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 Republic of Poland.

Declarations made by the Republic of Poland pursuant to Article 63 of the Convention:

1. Re. Article 3 of the Convention:
  - Articles 1103 and 1110 of the Code of Civil Procedure (Kodeks postępowania cywilnego) do not apply to the persons designated in Article 3 paragraph 1 of the Convention in the Republic of Poland;
2. Re. Article 32 of the Convention:
  - In the Republic of Poland applications for approval of enforcement of a decision of a foreign court are to be made to the “sad okręgowy”;
3. Re. Article 37 of the Convention:
  - In the Republic of Poland, appeals against a judgment of a court of first instance are to be made to the “sad apelacyjny”;
  - In the Republic of Poland only cassation (kasacja) of a judgment issued on appeal is permitted;
4. Re. Article 40 of the Convention:
  - In the Republic of Poland, if an application for approval of enforcement of the decision of the foreign court is rejected, the applicant may appeal to the “sad apelacyjny”;
5. Re. Article 41 of the Convention:
  - In the Republic of Poland only cassation (kasacja) of a judgment issued on the appeal allowed under Article 40 is permitted;
6. Re. Article 55 of the Convention: this Convention replaces the following Conventions:
  - The Polish-Austrian Convention on Bilateral Relations in Civil Matters and Concerning Documents, signed in Vienna on 11 December 1963;
  - The Polish-French Convention on Applicable Law, Jurisdiction and Enforcement of Judgments in the Field of the Law Concerning Individuals and Families, signed in Warsaw on 5 April 1967;
  - The Polish-Greek Convention on Mutual Assistance in Civil and Criminal Matters, signed in Athens on 24 October 1979; and
  - The Polish-Italian Convention on Mutual Assistance and the Recognition and Enforcement of Judgments in Civil Matters, signed in Warsaw on 28 April 1989.

The list of courts with jurisdiction over the applications referred to in article 32, of the courts of appeal with jurisdiction over the appeals referred to in articles 37(1) and 40, and of the court with jurisdiction over the appeals referred to in articles 37(2) and 41 is available from the depositary.

Portugal, 14 april 1992

Pursuant to article VI of Protocol No. 1 of 16 September 1988 to the Lugano Convention, in view of the amendments made to the legal order of the Portuguese Republic by:

- articles 65 and 65A of the Code of Civil Procedure (Código de Processo Civil) regarding the international jurisdiction of the law courts, and
  - Law No 3/99 of 13 January 1999 on the organisation, operation and jurisdiction of the law courts, particularly as regards the abolition of the Tribunais Judiciais de Círculo,
- the following amendments should be made to the Convention for the purposes of Article 67(g):
- a) article 3, point 13 should read as follows: “in Portugal: Articles 65 and 65A of the Code of Civil Procedure (Código de Processo Civil) and Article 11 of the Code of Labour Procedure (Código de Processo de Trabalho)”;
  - b) article 32, point 14 should read as follows: “in Portugal, to the Tribunal de Comarca.”

Spanje, 30 augustus 1994

Objection to the declaration made by the United Kingdom extending the territory to which the Convention applies.

Verenigd Koninkrijk, het, 5 februari 1992

Applicable to the United Kingdom of Great Britain and Northern Ireland. Reservation of the right to extend the Convention at a later date to any territory for whose international relations the Government of the United Kingdom is responsible.

Verenigd Koninkrijk, het, 31 juli 1998

Applicable to Gibraltar in the manner specified below:

Article 3: the reference with respect to the United Kingdom in the second paragraph to certain rules enabling the founding of jurisdiction shall apply *mutatis mutandis* to Gibraltar;

Article 30: the reference to the United Kingdom in the second paragraph shall apply to Gibraltar also;

Article 32: an application for enforcement of a judgment shall be submitted to the Supreme Court of Gibraltar, or in the case of a maintenance judgment to the Magistrate’s Court on transmission by the Attorney General of Gibraltar;

Article 37: under paragraph 1 of the Article an appeal against a decision authorising enforcement shall be lodged with the Supreme Court of Gibraltar, or in the case of a maintenance judgment with the Magistrates’ Court on transmission by the Attorney General of Gibraltar; under paragraph 2 of the Article the judgment given on the appeal may be contested only by a single further appeal on a point of law to the Court of Appeal of Gibraltar, or in the case of a maintenance judgment to the Supreme Court of Gibraltar by way of case stated;

Article 38: the reference to the United Kingdom in the second paragraph shall apply to Gibraltar also;

Article 40: an applicant may appeal against the refusal of an application for enforcement to the Supreme Court of Gibraltar, or in the case of a maintenance judgment to the Magistrates' Court;

Article 41: a judgment on an appeal provided for in Article 40 may be contested only by a single further appeal on a point of law to the Court of Appeal of Gibraltar, or in the case of a maintenance judgment to the Supreme Court of Gibraltar by way of case stated.

(On 7 August 2000 and 21 September 2000, respectively, the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Spain deposited with the Swiss Federal Council the text of the Agreed Arrangements relating to Gibraltar Authorities in the context of EU and EC Instruments and Related Treaties, contained in a document of 19 April 2000; 31 October 2000)

Zweden, 9 oktober 1992

Objection to the procedure in Article IV, paragraph 2 of Protocol No. 1, whereby 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.

Zwitserland, 18 oktober 1991

In accordance with article Ia of Protocol No. 1, Switzerland reserves the right not to recognise and enforce judgments given in the other Contracting States if:

- a) the jurisdiction of the court which has given the judgment is based only on article 5(1) of the Convention;
- b) the defendant was domiciled in Switzerland at the time proceedings were instituted (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 its activities in Switzerland); and
- c) the defendant raises an objection to the recognition or enforcement of the judgment in Switzerland, provided that he has not waived the benefit of the declaration foreseen under this paragraph.

In accordance with article IV, paragraph 2 of Protocol No. 1, Switzerland reserves the right to require that documents originating from and destined for Switzerland be transmitted between the appropriate public officers by other means.

Zwitserland, 12 december 2006

Switzerland has the honour to give notice that the entry into force in Switzerland of the Act on the Federal Tribunal of 17 June 2005, published in the *Recueil officiel du droit fédéral* 2006, pp. 1205ff., will from 1 January 2007 onwards, affect the application of article VI of Protocol no. 1 to the Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters of 16 September 1988, by



modifying the references to Switzerland in articles 37 (2) and 41 as follows:

“in French: “en Suisse, que d’un recours devant le Tribunal fédéral/Bundesgericht/Tribunale federale”; in German: “in der Schweiz: eine Beschwerde beim Bundesgericht/Tribunal fédéral/Tribunal federale”; in Italian: “ricorso davanti al Tribunale federale/Bundesgericht/Tribunal fédéral, in Svizzera”; in English: “in Switzerland, an appeal to the Bundesgericht/Tribunal fédéral/Tribunale federale”.

#### G. INWERKINGTREDING

Zie *Trb.* 1991, 179.

Het Verdrag zal ingevolge artikel 69, zesde lid, van het in rubriek J hieronder genoemde Verdrag van 30 oktober 2007 en de inwerkingtreding van dat Verdrag op 1 januari 2010, op diezelfde datum buiten werking treden voor de lidstaten van de Europese Gemeenschap, Noorwegen en Denemarken, dat niet deelneemt aan titel IV van het Verdrag tot oprichting van de Europese Gemeenschap en ingevolge de artikelen 1 en 2 van het Protocol betreffende de positie van Denemarken niet als lidstaat van de Europese Gemeenschap gebonden is door het Verdrag van 30 oktober 2007. Voor IJsland en Zwitserland zal het Verdrag buiten werking treden op het moment van inwerkingtreding van het Verdrag van 30 oktober 2007 voor de desbetreffende staten.

Het Verdrag zal ingevolge hetzelfde artikel op 1 januari 2010 buiten werking treden voor het Koninkrijk der Nederlanden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Verdrag alleen voor Nederland en zal het dus ook alleen voor Nederland buiten werking treden.

#### J. VERWIJZINGEN

Zie *Trb.* 1989, 58, *Trb.* 1991, 179, *Trb.* 1992, 72 en *Trb.* 1998, 73.

### **Verbanden**

Het Verdrag wordt vervangen door:

- |       |   |
|-------|---|
| Titel | : Verdrag betreffende de rechterlijke bevoegdheid, de erkenning en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken;<br>Lugano, 30 oktober 2007 |
| Tekst | : <i>Pb.</i> EU L 339 van 21 december 2007, blz. 3-41   |

**Overige verwijzingen**

- Titel : Verdrag betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken;  
Brussel, 27 september 1968
- Laatste *Trb.* : *Trb.* 2005, 65
- Titel : 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, alsmede tot het Protocol betreffende de uitlegging daarvan door het Hof van Justitie;  
Luxemburg, 9 oktober 1978
- Laatste *Trb.* : *Trb.* 2005, 65
- Titel : Verdrag inzake de toetreding van de Helleense Republiek tot het Verdrag betreffende de rechterlijke bevoegdheid en de tenuitvoerlegging van beslissingen in burgerlijke en handelszaken, alsmede tot het Protocol betreffende de uitlegging daarvan door het Hof van Justitie, zoals deze zijn gewijzigd bij het Verdrag inzake de toetreding van het Koninkrijk Denemarken, Ierland en het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland;  
Luxemburg, 25 oktober 1982
- Laatste *Trb.* : *Trb.* 1999, 102
- Titel : Verdrag inzake de betekening en de kennisgeving in het buitenland van gerechtelijke en buitengerechtelijke stukken in burgerlijke en in handelszaken;  
's-Gravenhage, 15 november 1965
- Laatste *Trb.* : *Trb.* 2008, 161
- Titel : Verdrag tot het vaststellen van enige eenvormige regels betreffende het conservatoir beslag op zeeschepen;  
Brussel, 10 mei 1952
- Laatste *Trb.* : *Trb.* 1996, 321

- 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; Luxemburg, 3 juni 1971
- Laatste *Trb.* : *Trb.* 1999, 100
- Titel : Verdrag tussen het Koninkrijk der Nederlanden en de Republiek Oostenrijk betreffende de wederzijdse erkenning en tenuitvoerlegging van rechterlijke beslissingen en authentieke akten op het gebied van het burgerlijk recht; 's-Gravenhage, 6 februari 1963
- Laatste *Trb.* : *Trb.* 2005, 62
- Titel : Verdrag tot oprichting van de Europese Gemeenschap voor Kolen en Staal; Parijs, 18 april 1951
- Laatste *Trb.* : *Trb.* 2002, 145
- Titel : Verdrag tot oprichting van de Europese Gemeenschap; Rome, 25 maart 1957
- Laatste *Trb.* : *Trb.* 2008, 51
- Titel : Verdrag tot oprichting van de Europese Gemeenschap voor Atoomenergie (EURATOM); Rome, 25 maart 1957
- Laatste *Trb.* : *Trb.* 2008, 52
- Titel : Verdrag inzake de verlening van Europese octrooien (Europees Octrooiverdrag); München, 5 oktober 1973
- Laatste *Trb.* : *Trb.* 2007, 232

Uitgegeven de *zevende* december 2009.

*De Minister van Buitenlandse Zaken,*

M. J. M. VERHAGEN