

No. 9347

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**ISRAEL  
and  
AUSTRIA**

**Convention concerning the reciprocal recognition and enforcement of judicial decisions in civil and commercial matters. Signed at Jerusalem, on 6 June 1966**

*Official text: French.*

*Registered by Israel on 16 December 1968.*

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**ISRAËL  
et  
AUTRICHE**

**Convention sur la reconnaissance et l'exécution réciproques des décisions judiciaires en matière civile et commerciale. Signée à Jérusalem, le 6 juin 1966**

*Texte officiel français.*

*Enregistrée par Israël le 16 décembre 1968.*

[TRANSLATION — TRADUCTION]

No. 9347. CONVENTION<sup>1</sup> BETWEEN THE STATE OF ISRAEL AND THE REPUBLIC OF AUSTRIA CONCERNING THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT JERUSALEM, ON 6 JUNE 1966

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The State of Israel and the Republic of Austria, desiring to ensure the reciprocal recognition and enforcement of judicial decisions rendered in civil and commercial matters, have agreed as follows :

*Article 1*

(1) This Convention shall apply to decisions rendered in civil or commercial matters by the courts of either Contracting State.

(2) However, this Convention shall not apply :

- (a) to decisions in matters relating to personal status or capacity, family law, including personal relations between parents and children and between spouses, or those deriving from the marriage settlement;
- (b) to decisions rendered in matters relating to succession;
- (c) to decisions rendered in matters relating to bankruptcy, composition or similar proceedings, including decisions rendered pursuant to these proceedings and relating to the validity of instruments in respect of creditors.

(3) Notwithstanding the provisions of paragraph (2), this Convention shall apply to decisions in matters relating to maintenance obligations.

*Article 2*

(1) This Convention shall apply to any decision in contentious or non-contentious matters rendered by a judicial authority, regardless of the designation given to the decision, even where the decision has been rendered in criminal proceedings.

(2) However, it shall not apply to decisions in so far as they order provisional measures or measures of conservation.

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<sup>1</sup> Came into force on 25 October 1968, on the sixtieth day following the exchange of the instruments of ratification which took place at Vienna on 26 August 1968, in accordance with the provisions of article 16.

*Article 3*

This Convention shall apply irrespective of the nationality of the parties.

*Article 4*

A decision rendered in either Contracting State must be recognized or enforced in the other State, provided that the following conditions are met :

- (a) that it was rendered by a court deemed competent for the purposes of this Convention;
- (b) that it is no longer appealable and, where appropriate, that it is enforceable in the State in which it was rendered. Decisions in matters relating to maintenance obligations shall, however, be enforceable notwithstanding appeal;
- (c) in the case of a decision rendered by default, that notice of the summons or order instituting proceedings has been duly served in accordance with the law of the State in which it was rendered.

*Article 5*

Recognition or enforcement of a decision may, nevertheless, be refused in any of the following cases :

1. where recognition or enforcement of the decision proves to be incompatible with the public policy of the State applied to;
2. where recognition or enforcement of the decision is liable to prejudice the sovereignty or security of the State applied to;
3. where an identical action, relating to the same matter and based on the same cause, is pending, between the same parties, in a court of the State applied to, such court having taken cognizance of the action first;
4. where the judgement debtor, being a defendant in the proceedings, was a person who, under public international law, was entitled to immunity from the jurisdiction of the original court and did not submit to the jurisdiction of that court, or where the judgment is sought to be enforced against a person who, under public international law, is entitled to immunity from the jurisdiction of the court applied to;
5. where the defendant satisfies the court applied to that the decision is the result of fraud;
6. where the decision was rendered by default and the defaulting party satisfies the court applied to that, through no fault of his own, he did not acquire knowledge of the summons or order instituting proceedings in sufficiently reasonable time to enable him to defend;
7. where the defendant satisfies the court applied to that he was not given a fair chance to present his arguments or evidence.

*Article 6*

(1) Recognition or enforcement shall not be refused solely on the ground that the original court applied a law other than that which would have been applicable under the private international law of the State applied to.

(2) Nevertheless, recognition or enforcement may be refused if, in respect of prior questions concerning the matters referred to in article 1, paragraph (2), and which do not constitute the subject of paragraph (3) of the same article, a decision rendered in the other State disregards some regulation of the private international law of the State applied to, unless application of the regulation would have produced the same result.

*Article 7*

The decision regarding which recognition or enforcement is requested shall not constitute the subject of any examination other than that rendered necessary in application of articles 4, 5 and 6. Nor shall any examination of the merits of the case be undertaken.

*Article 8*

The authority applied to shall, when evaluating the competence of the original authority, be bound by the established facts upon which it has itself based its competence, unless the decision has been rendered by default.

*Article 9*

The court of the State in which the decision was rendered shall be deemed to be competent for the purposes of this Convention :

1. If, when the proceedings were instituted, the defendant had his domicile or usual residence in that State or, where the defendant is not a natural person, if the defendant's head office or principal establishment was in that State;
2. If the defendant has a commercial, industrial or other establishment, branch or agency in that State and has been summoned in that State in connexion with any claim arising out of the operation of the said establishment, branch or agency;
3. If the defendant has expressly agreed before the said court, prior to the initiation of the proceedings concerning the matter which constitutes the subject of the proceedings, to submit the matter to the jurisdiction of the said court;
4. If the defendant has submitted a defence to the substance of the case without refusing to acknowledge the jurisdiction of the said court or without making reservations in regard to that matter;
5. If the subject of the proceedings was a claim relating to immovable property situated in that state;

6. If, in proceedings relating to damages deriving from some non-contractual obligation, the tort occurred in that State;
7. If, in the case of a counter-claim, the court is recognized as competent under the terms of this Convention to hear the main claim or the counter-claim.

#### *Article 10*

(1) The competence of courts of the State in which the decision was rendered shall be disallowed for the purposes of this Convention if, in the State applied to, regulations are in force granting exclusive competence to the courts of the latter State to hear the action that occasioned the decision.

(2) The competence of such courts of the State in which the decision was rendered may likewise be disallowed if the authority applied to considers itself bound to recognize the exclusive competence of a court of a third nation by virtue of an agreement between the parties, or by virtue of an international convention.

#### *Article 11*

The party seeking recognition or enforcement must produce the following :

- (a) a complete certified true copy of the decision, which copy must comply with requirements as to its authenticity, and, where the decision does not state the grounds and where the court applied to so requires, all such documents as will allow the aforesaid authority to make the examination incumbent upon it under this Convention;
- (b) in the case of a decision rendered by default, the original or a certified true copy of such documents as will establish that the initial summons was duly served on the defaulting party;
- (c) all such documents or affidavits as will establish that, in accordance with the law of the State in which the decision was rendered, the decision is enforceable in the said State, and, except for decisions in matters relating to maintenance obligations, that the decision is no longer appealable;
- (d) the aforementioned documents shall be translated into Hebrew for use in the State of Israel, and into German for use in the Republic of Austria; the said documents must be authenticated either by a diplomatic or consular agent of one of the contracting parties, or by any other person duly authorized for the purpose in either of the two States.

*Article 12*

(1) The procedure for seeking recognition or enforcement of a decision shall, unless this Convention provides otherwise, be governed by the law of the State applied to.

(2) If the decision relates to more than one claim, recognition or enforcement may be granted, for only part of the decision, unless the aforesaid claims are indivisible.

(3) Enforcement of a sentence to pay court costs and expenses may be granted under this Convention only if the case itself comes within its scope.

*Article 13*

The courts of either Contracting State must not proceed with any action brought before them, or if the law of the State so permits and the court deems this in order, it must stay its judgement, when an action relating to the same matter and based on the same cause is pending, between the same parties, in a court of the other Contracting State, and if a decision susceptible of recognition or enforcement under this Convention could result therefrom.

*Article 14*

This Convention shall not derogate from Conventions to which the Contracting States are or may become parties and which, in specific matters, govern the recognition and enforcement of decisions referred to in this Convention.

*Article 15*

This Convention shall apply only to such judicial decisions as may be rendered after its entry into force.

*Article 16*

(1) This Convention shall be ratified. The exchange of the instruments of ratification shall be effected at Vienna as soon as possible.

(2) The Convention shall enter into force on the sixtieth day following the exchange of instruments of ratification.

*Article 17*

Each of the Contracting States may denounce this Convention by written notice to the other Contracting Party. The denunciation shall take effect one year after notice is given thereof.

DONE at Jerusalem, in two copies, in the French language, on this 18th day of Sivan 5726, corresponding to 6 June 1966.

For the State  
of Israel :  
Abba EBAN

For the Republic  
of Austria :  
Dr. Walther PEINSIPP