Convention

The United Nations Convention on the Protection of the Rights of all Migrant Workers and their Families, adopted by the United Nations General Assembly on 18 December 1990 (resolution 45/158), entered into force on 1 July 2003 in accordance with its provisions.

Recognizing the importance of the protection of the rights of all migrant workers and their families, taking into account the economic, social and cultural aspects of migration and the implications of migration for the nations concerned, as well as the rights of those persons who are migrant workers and their families, because of the movement involved, and bearing in mind the principles of the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights, as well as the Slavery Convention, the Forced Labour Convention, the Convention on the Protection of the Rights of Seamen, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention against Discrimination in Education, the Convention on the Political Rights of Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Slavery Convention of 1926, the Convention concerning Forced or Compulsory Labour, the Abolition of Forced Labour Convention, the Minimum Wage Fixing Machinery Convention, the Right of Association (Non-Metropolitan Territories) Convention, the Rural Workers' Organizations Convention, the Vocational Bipartite Relations Convention, the Social Policy (Non-Metropolitan Territories) Convention, the Workers' Representatives Convention, the Labour Inspection (Agriculture) Convention, the Employment Promotion and Protection against Unemployment Convention, the Migration for Employment Convention (Revised), the Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers Convention, the Protection of Wages Convention, the Private Employment Agencies Convention, the Protection of Workers' Claims (Employer's Insolvency) Convention, the Equal Remuneration Convention, the Abolition of Forced Labour Convention, the Labour Inspection Convention, the Minimum Age Convention, the Worst Forms of Child Labour Convention, the Collective Bandaging Convention, the Indigenous and Tribal Populations Convention, the Indigenous and Tribal Populations (Revised) Convention, the Plantations Convention, the Maternity Protection Convention, the Rehabilitation and Employment (Disabled Persons) Convention, the Workers with Family Responsibilities Convention, the Nurses' Convention, the Social Security (Minimum Standards) Convention, the Employment Policy Convention, the Employment Policy (Supplementary Provisions) Convention, the Holidays with Pay Convention, the Holidays with Pay Convention (Revised), the Minimum Wage Fixing Convention, the Minimum Wage Fixing Machinery (Agriculture) Convention, the Minimum Wage Fixing Machinery (Underdeveloped Countries) Convention, the Protection of Wages Convention, the Labour Administration Convention, the Tripartite Consultation (International Labour Standards) Convention, the Occupational Safety and Health Convention, the Occupational Health Services Convention, the Occupational Safety and Health (Dockworkers) Convention, the Occupational Safety and Health (Construction) Convention, the Occupational Safety and Health (Mines) Convention, the Occupational Safety and Health (Seafarers) Convention, the Occupational Safety and Health (Fishermen) Convention, the Occupational Safety and Health (Plantations) Convention, the Occupational Safety and Health (Dockworkers) Convention (Revised), the Occupational Safety and Health (Seafarers) Convention (Revised), the Occupational Safety and Health (Fishermen) Convention (Revised), the Occupational Safety and Health (Plantations) Convention (Revised),

(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

(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 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

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 indend 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 57

The High Contracting Parties have agreed as follows:

I. 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.