



AN BILLE UM DHLÍNSE CÚIRTEANNA AGUS
FORGHNÍOMHÚ BREITHIÚNAS (NA COMHPHOBAIL
EORPACHA), 1987
JURISDICTION OF COURTS AND ENFORCEMENT OF
JUDGMENTS (EUROPEAN COMMUNITIES) BILL, 1987

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Application of Act.
3. Conventions to have force of law.
4. Interpretation of Conventions.
5. Applications for recognition and enforcement of Community judgments.
6. Enforcement of Community judgments (other than maintenance orders).
7. Enforcement of Community maintenance orders.
8. Provisions in enforcement orders for payment of interest on judgments and payment of costs.
9. Currency of payments under Community maintenance orders.
10. Proof and admissibility of certain judgments and related translations and documents.
11. Provisional, including protective, measures.
12. Provision of certain documents by courts in the State to interested parties.
13. Domicile for purposes of 1968 Convention and Act.
14. Venue for certain proceedings instituted in Circuit Court or District Court by virtue of this Act.
15. Short title, construction and commencement.

FIRST SCHEDULE

Text of the 1968 Convention as amended by the 1978 Accession Convention and the 1982 Accession Convention.

SECOND SCHEDULE

Text of the 1971 Protocol as amended by the 1978 Accession Convention and the 1982 Accession Convention.

THIRD SCHEDULE

Titles V and VI of the 1978 Accession Convention.

FOURTH SCHEDULE

Titles V and VI of the 1982 Accession Convention.

FIFTH SCHEDULE

Domicile.

PART I

PART II

PART III

PART IV

PART V

PART VI

ACTS REFERRED TO

Central Bank Act, 1971	1971, No. 24
Courts (Supplemental Provisions) Acts, 1961 to 1986	
Defence Act, 1954	1954, No. 18
Enforcement of Court Orders Act, 1940	1940, No. 23
European Communities Act, 1972	1972, No. 27
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 27
Illegitimate Children (Affiliation Orders) Act, 1930	1930, No. 17



AN BILLE UM DHLÍNSE CÚIRTEANNA AGUS
FORGHNÍOMHÚ BREITHIÚNAS (NA COMHPHOBAIL
EORPACHA), 1987

JURISDICTION OF COURTS AND ENFORCEMENT OF
JUDGMENTS (EUROPEAN COMMUNITIES) BILL, 1987

BILL

entitled

AN ACT TO GIVE THE FORCE OF LAW TO THE CON-
VENTION ON JURISDICTION AND THE ENFORCEMENT
OF JUDGMENTS IN CIVIL AND COMMERCIAL MAT-
TERS (INCLUDING THE PROTOCOL ANNEXED TO
THAT CONVENTION) SIGNED AT BRUSSELS ON THE
27TH DAY OF SEPTEMBER, 1968, THE PROTOCOL ON
THE INTERPRETATION OF THAT CONVENTION BY
THE COURT OF JUSTICE OF THE EUROPEAN COM-
MUNITIES SIGNED AT LUXEMBOURG ON THE 3RD
DAY OF JUNE, 1971, AND THE CONVENTIONS PRO-
VIDING FOR THE ACCESSION OF THE STATE,
DENMARK, THE UNITED KINGDOM AND THE HELL-
ENIC REPUBLIC TO THAT CONVENTION AND THAT
PROTOCOL AND TO PROVIDE FOR MATTERS CONSE-
QUENT UPON AND OTHERWISE RELATED TO THE
MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS
FOLLOWS:

1.—(1) In this Act—

Interpretation.

“the 1978 Accession Convention” means the Convention on the
accession to the 1968 Convention and the 1971 Protocol of the State,
Denmark and the United Kingdom, signed at Luxembourg on the 9th
day of October, 1978;

“the 1982 Accession Convention” means the Convention on the
accession to the 1968 Convention and the 1971 Protocol (as amended
in each case by the 1978 Accession Convention) of the Hellenic
Republic, signed at Luxembourg on the 25th day of October, 1982;

“Contracting State” means—

- (a) one of the original parties to the 1968 Convention (Belgium,
the Federal Republic of Germany, France, Italy, Lux-
embourg and the Netherlands), or
- (b) one of the parties acceding to the 1968 Convention under
the 1978 Accession Convention or the 1982 Accession
Convention (the State, Denmark, the United Kingdom
and the Hellenic Republic),

being a state in respect of which the 1978 Accession Convention has
entered into force in accordance with Article 39 of that Convention
or, as may be appropriate, the 1982 Accession Convention has entered
into force in accordance with Article 15 of that Convention, and,

where the context so allows, "Contracting State" shall be construed so as to enable this Act to have effect as respects the places as respects which the 1968 Convention has effect by virtue of Article 60;

"the 1968 Convention" means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention), signed at Brussels on the 27th day of September, 1968; 5

"the Conventions" means the 1968 Convention, the 1971 Protocol, the 1978 Accession Convention and, on and from the commencement of *section 3* of this Act, in so far as it relates to the 1982 Accession Convention, the 1982 Accession Convention; 10

"court" includes a tribunal;

"enforcement order" means—

(a) an order made by the Master of the High Court under *section 5* of this Act for the recognition or enforcement of the whole or part of a judgment, or 15

(b) an order of the High Court for the recognition or enforcement of the whole or part of an instrument or settlement referred to in Title IV of the 1968 Convention,

and includes an enforcement order made or varied on appeal from a decision of the Master of the High Court or a decision of the High Court; 20

"the European Communities" has the same meaning as in *section 1* of the European Communities Act, 1972;

"the European Court" means the Court of Justice of the European Communities; 25

"judgment", except in *section 2* of this Act but subject to *section 6* of this Act, means a judgment or order to which, by virtue of the said *section 2*, this Act applies;

"maintenance creditor" means, in relation to a maintenance order, the person entitled to the payments for which the order provides; 30

"maintenance debtor" means, in relation to a maintenance order, the person liable to make payments under the order;

"maintenance order" means, subject to *section 6* of this Act, a judgment that is a judgment relating to maintenance (within the meaning of the 1968 Convention) in so far, but only in so far, as it provides for the making of periodic payments; 35

"the Minister" means the Minister for Justice;

"non-contracting state" means any state, country or territory other than a Contracting State; 40

"the 1971 Protocol" means the Protocol on the interpretation of the 1968 Convention by the European Court, signed at Luxembourg on the 3rd day of June, 1971.

(2) A document purporting to be a copy of a judgment given by a court of a Contracting State shall, for the purposes of this Act, be regarded as being duly authenticated if it purports— 45

(a) to bear the seal of that court, or

(b) to be certified by a person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.

(3) In this Act, unless the context otherwise requires—

5 (a) references to, or to any provision of, the 1968 Convention or the 1971 Protocol are references to the 1968 Convention, the 1971 Protocol or the provision, as the case may be, as amended by—

(i) the 1978 Accession Convention, and

10 (ii) after the commencement of *section 3* of this Act, in so far as it relates to the 1982 Accession Convention, the 1982 Accession Convention,

(b) any reference to a numbered Article is, unless the context otherwise requires, a reference to the Article so numbered of the 1968 Convention and any reference to a subdivision of a numbered Article shall be construed accordingly.

(4) (a) The Minister for Foreign Affairs may by order declare—

(i) that any state specified in the order is a Contracting State, or

20 (ii) that a declaration (the text of which shall be set out in the order) has been made pursuant to Article 60 or Article IV, or a communication (the text of which shall be set out in the order) has been made pursuant to Article VI, to the Secretary-General of the Council of the European Communities.

(b) An order that is in force under this subsection shall be evidence—

30 (i) as respects any declaration under *paragraph (a) (i)* therein, that any state to which the declaration relates is a Contracting State, and

(ii) as respects any declaration under *paragraph (a) (ii)* therein, that the declaration pursuant to Article 60 or Article IV, or, as the case may be, the communication pursuant to Article VI, to which the first mentioned declaration relates was made and of its contents.

35 (c) The Minister for Foreign Affairs may by order amend or revoke an order under this subsection including an order under this paragraph.

2.—This Act applies to any judgment or order (by whatever name Application of Act.
40 called) that is a judgment for the purposes of the 1968 Convention.

3.—(1) The Conventions shall have the force of law in the State Conventions to
and judicial notice shall be taken of them. have force of law.

(2) For convenience of reference there are set out in the *First, Second, Third and Fourth Schedules*, respectively, to this Act:

45 (a) the 1968 Convention, as amended by Titles II and III of the 1978 Accession Convention and Titles II and III of the 1982 Accession Convention,

(b) the 1971 Protocol, as amended by Title IV of the 1978 Accession Convention and Title IV of the 1982 Accession Convention,

(c) Titles V and VI of the 1978 Accession Convention,

(d) Titles V and VI of the 1982 Accession Convention, 5

being texts prepared from the authentic texts in the English language referred to in Articles 37 and 41 of the 1978 Accession Convention and Article 17 of the 1982 Accession Convention.

Interpretation of Conventions.

4.—(1) Judicial notice shall be taken of—

(a) any ruling or decision of, or expression of opinion by, the 10
European Court on any question as to the meaning or effect of any provision of the Conventions, and

(b) the reports specified in *subsection (2)* of this section.

(2) The following reports (which are reproduced in the Official Journal of the European Communities), namely— 15

(a) the reports by Mr. P. Jenard on the 1968 Convention and the 1971 Protocol¹, and

(b) the report by Professor Peter Schlosser on the 1978 Accession Convention²,

may be considered by any court when interpreting any provision of those Conventions and that Protocol and shall be given such weight as is appropriate in the circumstances. 20

Applications for recognition and enforcement of Community judgments.

5.—An application under Article 31 for the recognition or enforcement in the State of a judgment shall be made to the Master of the High Court and shall be determined by him by order (including an 25
order for the recognition or enforcement of a judgment in part only) in accordance with the Conventions.

Enforcement of Community judgments (other than maintenance orders).

6.—(1) Subject to *section 8 (4)* of this Act and to the restriction on enforcement contained in Article 39—

(a) a judgment, other than a maintenance order, in respect of 30
which an enforcement order has been made, shall, to the extent to which the enforcement of the judgment is authorised by the enforcement order, be of the same force and effect, and

(b) for or as respects the enforcement of the judgment, the High 35
Court shall have the same powers, and proceedings may be taken,

as if the judgment was a judgment of the High Court.

(2) (a) The Master of the High Court may, on application to him in that behalf by the maintenance creditor, by order 40
declare that sums which were payable under an enforceable maintenance order, but were not paid, before the date of the making of the relevant enforcement order shall be regarded as being payable under a judgment referred to in *subsection (1)* of this section. 45

(b) The Master of the High Court shall not make a declaration under *paragraph (a)* of this subsection unless he considers that by so doing the enforceable maintenance order concerned would be more effectively enforced as respects the 50
sums concerned.

¹ OJ No. C59 of 5.3.1979, p.1

² OJ No. C59 of 5.3.1979, p.71

(c) Whenever the Master of the High Court makes a declaration under *paragraph (a)* of this subsection, the sums to which it relates shall be deemed, for the purposes of this Act, to be payable under a judgment referred to in the said *subsection (1)* and not otherwise.

(3) In this section "judgment" includes an instrument or settlement referred to in Title IV of the 1968 Convention.

7.—(1) In this section "enforceable maintenance order" means—

Enforcement of
Community
maintenance
orders.

(a) a maintenance order as regards the enforcement of the whole of which an enforcement order has been made, or

(b) in case an enforcement order has been made for the enforcement of a maintenance order in part only, the maintenance order to the extent to which it is so ordered to be enforced.

(2) (a) Subject to *section 8 (4)* of this Act and to the restriction on enforcement contained in Article 39, the District Court shall have jurisdiction to enforce an enforceable maintenance order and—

(i) for that purpose,

(ii) for the purposes of section 98 (1) of the Defence Act, 1954, and

(iii) subject to the 1968 Convention, for the purpose of the variation or revocation of such an order under section 5 of the Illegitimate Children (Affiliation Orders) Act, 1930, or section 6 of the Family Law (Maintenance of Spouses and Children) Act, 1976,

such an order shall, from the date on which the maintenance order was made, be deemed to be an order made by the District Court under section 3 of the said Illegitimate Children (Affiliation Orders) Act, 1930, or section 5 of the said Family Law (Maintenance of Spouses and Children) Act, 1976, as may be appropriate.

(b) *Paragraph (a)* of this subsection shall have effect notwithstanding that any amount payable under the order concerned exceeds the maximum amount which the District Court has jurisdiction to award under the appropriate enactment mentioned in that paragraph.

(3) Where an enforceable maintenance order is varied by a court in a Contracting State other than the State and an enforcement order has been made as regards the whole or part of the enforceable maintenance order as so varied or as regards the whole or part of the order effecting the variation, as the case may be, the enforceable maintenance order shall, from the date on which the variation takes effect, be enforceable in the State only as so varied.

(4) Where an enforceable maintenance order is revoked by a court in a Contracting State other than the State and an enforcement order has been made as regards the order effecting the revocation, the enforceable maintenance order shall, from the date on which the revocation takes effect, cease to be enforceable in the State except in relation to any sums under the order which were payable, but were not paid, on or before that date.

(5) In the case of an enforceable maintenance order—

(a) any sums which were payable thereunder, but were not paid, before the date of the making of the relevant enforcement order, and

(b) any costs of or incidental to the application for the said enforcement order payable by virtue of section 8 (2) of this Act,

shall, subject to section 6 (2) of this Act, be regarded as being payable by virtue of an order made under section 3 of the Illegitimate Children (Affiliation Orders) Act, 1930, or section 5 of the Family Law (Maintenance of Spouses and Children) Act, 1976, as may be appropriate. 5

(6) The jurisdiction vested in the District Court by this section shall be exercised by the justice of the District Court for the time being assigned to the district court district in which the maintenance debtor under the enforceable maintenance order concerned resides. 10

(7) (a) Any sum payable by virtue of an enforceable maintenance order shall, notwithstanding anything to the contrary therein, be paid by the maintenance debtor concerned to the court clerk for the district court area in which the maintenance debtor for the time being resides for transmission to the maintenance creditor or, where a public authority has been authorised by the maintenance creditor to receive such sum, to that authority. 15

(b) If any sum payable by virtue of an enforceable maintenance order is not duly paid and if the maintenance creditor concerned so requests in writing, the district court clerk concerned shall make an application under section 10 (which relates to the attachment of certain earnings) of the Family Law (Maintenance of Spouses and Children) Act, 1976, or section 8 (which relates to the enforcement of certain maintenance orders) of the Enforcement of Court Orders Act, 1940, in respect of the sum and, for that purpose, the references in the said section 8 (other than subsections (4) and (5)) to the applicant shall be construed as references to the district court clerk. 20 25 30

(c) Nothing in this subsection shall affect the right of a maintenance creditor to institute proceedings for the recovery of any sum payable to a district court clerk under paragraph (a) of this subsection. 35

(8) Section 8 (7) of the Enforcement of Court Orders Act, 1940, shall not apply to proceedings for the enforcement of an enforceable maintenance order.

(9) A maintenance debtor under an enforceable maintenance order shall give notice to the district court clerk for the district court area in which he has been residing of any change of his address and, if he fails without reasonable cause to do so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500. 40

(10) In this section a reference to a district court clerk shall, where there are two or more district court clerks for the district court area concerned, be construed as a reference to any of those clerks. 45

(11) For the purposes of this section, the Dublin Metropolitan District shall be deemed to be a district court area.

Provisions in enforcement orders for payment of interest on judgments and payment of costs.

8.—(1) Where, on an application for an enforcement order, it is shown— 50

(a) that the relevant judgment provides for the payment of a sum of money, and

(b) that, in accordance with the law of the Contracting State in which the judgment was given, interest on that sum is 55

recoverable under the judgment at a particular rate or rates and from a particular date or time,

the order, if made, shall provide that the person by whom the sum aforesaid is payable shall also be liable to pay the interest aforesaid, apart from any interest on costs recoverable by virtue of *subsection* (2) of this section, in accordance with the particulars noted in the order, and the amount of the interest shall be recoverable by the applicant concerned as if it was part of the sum aforesaid.

(2) An enforcement order may, at the discretion of the court concerned or the Master of the High Court, as may be appropriate, provide for the payment to the applicant concerned by the respondent concerned of the reasonable costs of or incidental to the application for the order.

(3) A person by whom costs recoverable by virtue of *subsection* (2) of this section are payable shall be liable to pay interest on the costs as if they were the subject of an order for the payment of costs made by the High Court on the date of the making of the relevant enforcement order.

(4) Interest shall be payable on a sum referred to in *subsection* (1) of this section only as provided for by this section.

9.—(1) An amount payable in the State under a maintenance order by virtue of an enforcement order shall be paid in the currency of the State and, if the amount is stated in the maintenance order in a currency other than the currency of the State, the payment shall be made on the basis of the exchange rate prevailing, on the date of the making of the enforcement order, between that currency and the currency of the State.

Currency of payments under Community maintenance orders.

(2) For the purposes of this section, a certificate purporting to be signed by an officer of a bank in the State and to state the exchange rate prevailing on a specified date between a specified currency and the currency of the State shall be admissible as evidence of the facts stated in the certificate.

(3) In this section "bank" means the holder of a banker's licence within the meaning of the Central Bank Act, 1971.

10.—(1) For the purposes of the Conventions—

(a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a Contracting State other than the State shall without further proof be deemed to be a true copy of the judgment, unless the contrary is shown; and

Proof and admissibility of certain judgments and related translations and documents.

(b) the original or a copy of any such document as is mentioned in Article 46.2 or 47 shall be admissible as evidence of any matter to which it relates.

(2) A document which—

(a) purports to be a translation of a judgment given by a court of a Contracting State other than the State or of a document mentioned in Article 46.2, 47 or 50 or containing a settlement referred to in Article 51, and

(b) is certified as correct by a person competent to do so,

shall be admissible as evidence of the translation.

Provisional,
including
protective,
measures.

11.—(1) Where—

- (a) proceedings have been commenced or are to be commenced in a Contracting State other than the State, and
- (b) they are or will be proceedings whose subject-matter is within the scope of the 1968 Convention as determined by Article 1 (whether or not the 1968 Convention has effect in relation to the proceedings),

the High Court may, on application to it pursuant to Article 24, grant provisional, including protective, measures of any kind that the Court has power to grant in proceedings that, apart from this Act, are within its jurisdiction.

(2) On an application under *subsection (1)* of this section, the High Court may refuse to grant the measures sought if, in the opinion of that Court, the fact that that Court has not jurisdiction, apart from this section, in relation to the subject-matter of the proceedings in question makes it inexpedient for that Court to grant such measures.

(3) Subject to Article 39, an application to the Master of the High Court for the enforcement of a judgment and an application to the High Court for the enforcement of an instrument or settlement referred to in Title IV of the 1968 Convention may include an application for the granting of such protective measures as the High Court has power to grant in proceedings that, apart from this Act, are within its jurisdiction and, where an enforcement order is made in relation to a judgment or such an instrument or settlement, the order shall include a provision granting any such protective measures as aforesaid as are applied for as aforesaid.

Provision of certain
documents by courts
in the State to
interested parties.

12.—As respects a judgment given by a court in the State, the registrar or clerk of the court shall, at the request of an interested party and subject to any conditions that may be specified by rules of court, give to the interested party—

- (a) a copy of the judgment duly authenticated,
- (b) a certificate signed by the registrar or clerk of the court stating—
 - (i) the nature of the proceedings,
 - (ii) the grounds, pursuant to the 1968 Convention, on which the court assumed jurisdiction,
 - (iii) the date on which the time for the lodging of an appeal against the judgment will expire or, if it has expired, the date on which it expired,
 - (iv) whether notice of appeal against, or, in any case where the defendant does not appear, a notice to set aside, the judgment has been entered,
 - (v) where the judgment is for the payment of a sum of money, the rate of interest, if any, payable on the sum and the date from which interest is payable, and
 - (vi) such other particulars (if any) as may be specified by rules of court,

and

- 5 (c) in case the judgment was given in default of appearance, the original or a copy, certified by the registrar or clerk of the court to be a true copy, of a document establishing that notice of the institution of proceedings was served on the person in default.

10 13.—(1) Subject to Article 52, *Part I* of the *Fifth Schedule* to this Act shall apply in relation to the text in the English language of the 1968 Convention, and *Part II* of the said *Fifth Schedule* shall apply in relation to the text in the Irish language of the 1968 Convention, in order to determine for the purposes of the 1968 Convention and this Act whether an individual is domiciled in the State, in a place in the State or in a state other than a Contracting State.

Domicile for purposes of 1968 Convention and Act.

15 (2) The seat of a corporation or association shall be treated as its domicile, and *Part III* of the said *Fifth Schedule* shall apply in relation to the text in the English language of the 1968 Convention, and *Part IV* of the said *Fifth Schedule* shall apply in relation to the text in the Irish language of the 1968 Convention, in order to determine for the purposes of Article 53 of the 1968 Convention and this Act whether a corporation or association has its seat in the State, in a place in the State or in a state other than the State.

20 (3) *Part V* of the said *Fifth Schedule* shall apply in relation to the text in the English language of the 1968 Convention, and *Part VI* of the said *Fifth Schedule* shall apply in relation to the text in the Irish language of the 1968 Convention, in order to determine for the purposes of the 1968 Convention and this Act whether a trust is domiciled in the State.

(4) In this section—

“association” means an unincorporated body of persons;

“corporation” means a body corporate.

30 14.—(1) Subject to Title II of the Convention, the jurisdiction of the Circuit Court as respects proceedings that may be instituted in the State by virtue of Article 2, 8.1, 11 or 14 shall, where, apart from this subsection, that jurisdiction would be determined by reference to the place where the defendant or one of the defendants resides or carries on business, be exercised by the judge of the Circuit Court for the time being assigned to the circuit where the defendant or one of the defendants ordinarily resides or carries on any profession, business or occupation.

Venue for certain proceedings instituted in Circuit Court or District Court by virtue of this Act.

40 (2) The jurisdiction of the Circuit Court and the District Court as respects proceedings that may be instituted in the State by virtue of Article 14 by a plaintiff domiciled in the State may be exercised as follows:

- 45 (i) in the case of the Circuit Court, by the judge of the Circuit Court for the time being assigned to the circuit where the plaintiff or one of the plaintiffs ordinarily resides or carries on any profession, business or occupation, or
- 50 (ii) in the case of the District Court, by the justice of the District Court for the time being assigned to the district court district in which the plaintiff or one of the plaintiffs ordinarily resides or carries on any profession, business or occupation.

Short title,
construction and
commencement.

15.—(1) This Act may be cited as the Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act, 1987.

(2) The Courts (Supplemental Provisions) Acts, 1961 to 1986, and sections 5 to 8, and 11, 12 and 14 of this Act shall be construed together as one.

(3) (a) This Act, other than section 3 in so far as it relates to the 1982 Accession Convention, shall come into operation on such day or days as the Minister shall fix by order or orders either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

(b) Section 3 of this Act shall, in so far as it relates to the 1982 Accession Convention, come into operation on such day or days as the Minister shall fix by order or orders either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions and any day so fixed may be the same day as a day fixed under paragraph (a) of this subsection or a different day.

Section 3.

FIRST SCHEDULE

Text of the 1968 Convention as amended by the 1978 Accession Convention and the 1982 Accession Convention.

CONVENTION

on jurisdiction and the enforcement of judgments in civil and commercial matters

PREAMBLE

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY,

Desiring to implement the provisions of Article 220 of that Treaty by virtue of which they undertook to secure the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals;

Anxious to strengthen in the Community 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 judgments, authentic instruments and court settlements;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries:

(Designations of Plenipotentiaries of the original six Contracting States)

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

HAVE AGREED AS FOLLOWS:

TITLE I

SCOPE

Article 1

5 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;
- 10 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.

15 TITLE II

JURISDICTION

SECTION 1

GENERAL PROVISIONS

Article 2

20 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
25 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.

30 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*);
- 35 —in Denmark: Article 248 (2) of the law on civil procedure (*Lov om rettens pleje*) and Chapter 3, Article 3 of the Greenland law on civil procedure (*Lov for Grønland om rettens pleje*);
- in the Federal Republic of Germany: Article 23 of the code of civil procedure (*Zivilprozeßordnung*);
- 40 —in Greece: Article 40 of the code of civil procedure (*Κώδικας Πολιτικής Δικονομίας*);
- 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 Italy: Article 2 and Article 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*); 5
 - in the Netherlands: Articles 126 (3) and 127 of the code of civil procedure (*Wetboek van Burgerlijke Rechtsvordering*);
 - in the United Kingdom: the rules which enable jurisdiction to be founded on:
 - (a) the document instituting the proceedings having been 10
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 15
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. 20

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. 25

SECTION 2

SPECIAL JURISDICTION

Article 5

A person domiciled in a Contracting State may, in another Contracting State, be sued: 30

1. in matters relating to a contract, in the courts for the place of performance of the obligation in question;
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; 35
3. in matters relating to tort, delict or quasi-delict, in the courts 40
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; 45
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;
- 5 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 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
- 10 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

- 15 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
- 20 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 counter-claim arising from the same contract or facts on which the original claim was based, in the court in which the
- 25 original claim is pending.

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
- 30 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

- 35 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:

- 40 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 5

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. 10

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. 15

If the law governing such direct actions provides that the policyholder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them. 20

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. 25

The provisions of this Section 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 12

The provisions of this Section may be departed from only by an agreement on jurisdiction: 30

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 35
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 40
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 45
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
 - 5 (a) sea-going ships, installations situated offshore 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;
- 10 2. Any liability, other than for bodily injury to passengers or loss of or damage to their baggage,
 - 15 (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;
- 20 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;
2. Any risk or interest connected with any of those referred to in 1. to 3. above.

SECTION 4

25 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
- 35 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
 - 40 (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.

5

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 counter-claim in the court in which, in accordance with this Section, the original claim is pending.

10

Article 15

The provisions of this Section may be departed from only by an agreement:

1. which is entered into after the dispute has arisen, or 15
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. 20

SECTION 5

EXCLUSIVE JURISDICTION 25

Article 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

1. in proceedings which have as their object rights *in rem* in, or tenancies of, immovable property, the courts of the Contracting State in which the property is situated; 30
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; 35
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; 40 45
5. in proceedings concerned with the enforcement of judgments, the courts of the Contracting State in which the judgment has been or is to be enforced.

SECTION 6

PROROGATION OF JURISDICTION

Article 17

5 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 in writing or evi-
10 denced in writing or, in international trade or commerce, in a form which accords with practices in that trade or commerce of which the parties are or ought to have been aware. 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
15 over their disputes unless the court or courts chosen have declined jurisdiction.

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
20 relations between these persons or their rights or obligations under the trust are involved.

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
25 to exclude have exclusive jurisdiction by virtue of Article 16.

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.

30 *Article 18*

Apart from jurisdiction derived from other provisions of this Convention, a 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
35 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
40 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
45 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
50 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 15th 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. 5

SECTION 8 10

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 decline jurisdiction in favour of that court. 15

A court which would be required to decline jurisdiction may stay its proceedings if the jurisdiction of the other court is contested.

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. 20

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. 25

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 judgments resulting from separate proceedings. 30

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 35

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. 40

TITLE III
RECOGNITION AND ENFORCEMENT

Article 25

- 5 For the purposes of this Convention, "judgment" means any judgment given by a court or tribunal of a Contracting State, whatever the judgment 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

10 RECOGNITION

Article 26

A judgment given in a Contracting State shall be recognised in the other Contracting States without any special procedure being required.

- 15 Any interested party who raises the recognition of a judgment 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 judgment be recognised.

- 20 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 judgment shall not be recognised:

- 25 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;
- 30 3. if the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought;
- 35 4. if the court of the State in which the judgment was given, in order to arrive at its judgment, 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;
- 40 5. if the judgment is irreconcilable with an earlier judgment given in a non-Contracting State involving the same cause of action and between the same parties, provided that this latter judgment fulfils the conditions necessary for its recognition in the State addressed.
- 45

Article 28

Moreover, a judgment 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.

- 50 In its examination of the grounds of jurisdiction referred to in the foregoing paragraph, the court or authority applied to shall be bound by the findings of fact on which the court of the State in which the judgment was given based its jurisdiction.

Subject to the provisions of the first paragraph, the jurisdiction of the court of the State in which the judgment was given 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

5

Under no circumstances may a foreign judgment be reviewed as to its substance.

Article 30

A court of a Contracting State in which recognition is sought of a judgment given in another Contracting State may stay the proceedings if an ordinary appeal against the judgment has been lodged. 10

A court of a Contracting State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State in which the judgment was given by reason of an appeal. 15

SECTION 2

ENFORCEMENT

Article 31

A judgment 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, the order for its enforcement has been issued there. 20

However, in the United Kingdom, such a judgment 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. 25

Article 32

The application shall be submitted:

—in Belgium, to the *tribunal de première instance* or *rechtbank van eerste aanleg*; 30

—in Denmark, to the *underret*;

—in the Federal Republic of Germany, to the presiding judge of a chamber of the *Landgericht*;

—in Greece, to the *Μονομελές Πρωτοδικείο*;

—in France, to the presiding judge of the *tribunal de grande instance*; 35

—in Ireland, to the High Court;

—in Italy, to the *corte d'appello*;

—in Luxembourg, to the presiding judge of the *tribunal d'arrondissement*; 40

—in the Netherlands, to the presiding judge of the *arrondissementsrechtbank*;

—in the United Kingdom:

1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State; 45

2. in Scotland, to the Court of Session, or in the case of a

maintenance judgment to the Sheriff Court on transmission by the Secretary of State;

3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State.

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 judgment 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 authorized, 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 authorizing 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

- An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters:

—in Belgium, with the *tribunal de première instance* or *rechtbank van eerste aanleg*;

—in Denmark, with the *landsret*;

—in the Federal Republic of Germany, with the *Oberlandesgericht*;

- in Greece, with the *Εφετείο*;

- in France, with the *cour d'appel*;
 - in Ireland, with the High Court;
 - in Italy, with the *corte d'appello*;
 - in Luxembourg, with the *Cour supérieure de justice* sitting as a court of civil appeal; 5
 - in the Netherlands, with the *arrondissementsrechtbank*;
 - in the United Kingdom:
 1. in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;
 2. in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sheriff Court; 10
 3. in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.
- The judgment given on the appeal may be contested only:
- in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation; 15
 - 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; 20
 - 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 judgment in the State in which that judgment was given or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within which such an appeal is to be lodged. 25

Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the State in which it was given shall be treated as an ordinary appeal for the purposes of the first paragraph. 30

The court may also make enforcement conditional on the provision of such security as it shall determine.

Article 39

35

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 authorizing enforcement shall carry with it the power to proceed to any such protective measures. 40

Article 40

If the application for enforcement is refused, the applicant may appeal:

- in Belgium, to the *cour d'appel* or *hof van beroep*;
- 5 —in Denmark, to the *landsret*;
- in the Federal Republic of Germany, to the *Oberlandesgericht*;
- in Greece, to the *Εφετείο*;
- in France, to the *cour d'appel*;
- in Ireland, to the High Court;
- 10 —in Italy, to the *corte d'appello*;
- in Luxembourg, to the *Cour supérieure de justice* sitting as a court of civil appeal;
- in the Netherlands, to the *gerechtshof*;
- in the United Kingdom:
- 15 1. in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;
- 2. in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;
- 20 3. in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court.

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.

25 Article 41

A judgment given on an appeal provided for in Article 40 may be contested only:

- in Belgium, Greece, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation;
- 30 —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 the United Kingdom, by a single further appeal on a point of
- 35 law.

Article 42

Where a foreign judgment has been given in respect of several matters and enforcement cannot be authorized for all of them, the court shall authorize enforcement for one or more of them.

- 40 An applicant may request partial enforcement of a judgment.

Article 43

A foreign judgment 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 in which the judgment was given.

5

Article 44

An applicant who, in the State in which the judgment was given, 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 aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed.

10

An applicant who requests the enforcement of a decision given by an administrative authority in Denmark 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 the Danish 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.

15

Article 45

20

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgment 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.

25

SECTION 3

COMMON PROVISIONS

Article 46

A party seeking recognition or applying for enforcement of a judgment shall produce:

30

1. a copy of the judgment which satisfies the conditions necessary to establish its authenticity;
2. in the case of a judgment 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.

35

Article 47

A party applying for enforcement shall also produce:

1. documents which establish that, according to the law of the State in which it has been given, the judgment is enforceable and has been served;
2. where appropriate, a document showing that the applicant is in receipt of legal aid in the State in which the judgment was given.

40

Article 48

If the documents specified in Articles 46.2 and 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.

45

If the court so requires, a translation of the documents shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

Article 49

- 5 No legalization 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

10 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, have an order for its enforcement
15 issued 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 in the State in which enforcement is sought.

- The instrument produced must satisfy the conditions necessary to
20 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
25 shall be enforceable in the State in which enforcement is sought under the same conditions as authentic instruments.

TITLE V

GENERAL PROVISIONS

Article 52

- 30 In order to determine whether a party is domiciled in the Contracting State whose courts are seised of the 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
35 in another Contracting State, the court shall apply the law of that State.

The domicile of a party shall, however, be determined in accordance with his national law if, by that law, his domicile depends on that of another person or on the seat of an authority.

- 40

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

TRANSITIONAL PROVISIONS

5

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.

However, judgments given after the date of entry into force of this Convention in proceedings instituted before that date shall be recognized 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.

10

15

TITLE VII

RELATIONSHIP TO OTHER CONVENTIONS

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:

20

—the Convention between Belgium and France on jurisdiction and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Paris on 8 July 1899;

25

—the Convention between Belgium and the Netherlands on jurisdiction, bankruptcy, and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Brussels on 28 March 1925;

30

—the Convention between France and Italy on the enforcement of judgments in civil and commercial matters, signed at Rome on 3 June 1930;

—the Convention between the United Kingdom and the French Republic providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Paris on 18 January 1934;

35

—the Convention between the United Kingdom and the Kingdom of Belgium providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Brussels on 2 May 1934;

40

—the Convention between Germany and Italy on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 9 March 1936;

—the Convention between the Federal Republic of Germany and the Kingdom of Belgium on the mutual recognition and enforcement of judgments, arbitration awards and authentic instruments in civil and commercial matters, signed at Bonn on 30 June 1958;

45

- the Convention between the Kingdom of the Netherlands and the Italian Republic on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 17 April 1959;
 - 5 —the Convention between the United Kingdom and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Bonn on 14 July 1960;
 - 10 —the Convention between the Kingdom of Greece and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed in Athens on 4 November 1961;
 - 15 —the Convention between the Kingdom of Belgium and the Italian Republic on the recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at Rome on 6 April 1962;
 - 20 —the Convention between the Kingdom of the Netherlands and the Federal Republic of Germany on the mutual recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at The Hague on 30 August 1962;
 - 25 —the Convention between the United Kingdom and the Republic of Italy for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 7 February 1964, with amending Protocol signed at Rome on 14 July 1970;
 - 30 —the Convention between the United Kingdom and the Kingdom of the Netherlands providing for the reciprocal recognition and enforcement of judgments in civil matters, signed at The Hague on 17 November 1967,
- and, in so far as it is in force:
- 35 —the Treaty between Belgium, the Netherlands and Luxembourg on jurisdiction, bankruptcy, and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Brussels on 24 November 1961.

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.

- 40 They shall continue to have effect in respect of judgments given and documents formally drawn up or registered as authentic instruments before the entry into force of this Convention.

Article 57

- 45 This Convention shall not affect any convention 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 judgments.

This Convention shall not affect the application of provisions which, in relation to particular matters, govern jurisdiction or the recognition

or enforcement of judgments and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.

(Article 25.2 of the 1978 Accession Convention provides:

“With a view to its uniform interpretation, paragraph 1 of Article 57 shall be applied in the following manner: 5

- (a) the 1968 Convention as amended shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that convention, even where the defendant is domiciled in another Contracting State which is not a party to that convention. The court shall, in any event, apply Article 20 of the 1968 Convention as amended; 10
- (b) a judgment given in a Contracting State in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognized and enforced in the other Contracting States in accordance with the 1968 Convention as amended. 15

Where a convention on a particular matter to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of the 1968 Convention as amended which concern the procedures for recognition and enforcement of judgments may be applied.”) 20 25

Article 58

This Convention shall not affect the rights granted to Swiss nationals by the Convention concluded on 15 June 1869 between France and the Swiss Confederation on jurisdiction and the enforcement of judgments in civil matters. 30

Article 59

This Convention shall not prevent a Contracting State from assuming, in a convention on the recognition and enforcement of judgments, an obligation towards a third State not to recognize judgments given in other Contracting States against defendants domiciled or habitually resident in the third State where, in cases provided for in Article 4, the judgment could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3. 35

However, a Contracting State may not assume an obligation towards a third State not to recognize a judgment 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: 40

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, 45
2. if the property constitutes the security for a debt which is the subject-matter of the action.

TITLE VIII
FINAL PROVISIONS

Article 60

This Convention shall apply to the European territories of the Contracting States, including Greenland, to the French overseas
5 departments and territories, and to Mayotte.

The Kingdom of the Netherlands may declare at the time of signing or ratifying this Convention or at any later time, by notifying the Secretary-General of the Council of the European Communities, that this Convention shall be applicable to the Netherlands Antilles. In
10 the absence of such declaration, proceedings taking place in the European territory of the Kingdom as a result of an appeal in cassation from the judgment of a court in the Netherlands Antilles shall be deemed to be proceedings taking place in the latter court.

Notwithstanding the first paragraph, this Convention shall not apply
15 to:

1. the Faroe Islands, unless the Kingdom of Denmark makes a declaration to the contrary;
2. any European territory situated outside the United Kingdom for the international relations of which the United Kingdom is
20 responsible, unless the United Kingdom makes a declaration to the contrary in respect of any such territory.

Such declarations may be made at any time by notifying the Secretary-General of the Council of the European Communities.

Proceedings brought in the United Kingdom on appeal from courts
25 in one of the territories referred to in subparagraph 2 of the third paragraph shall be deemed to be proceedings taking place in those courts.

Proceedings which in the Kingdom of Denmark are dealt with under the law on civil procedure for the Faroe Islands (*lov for*
30 *Faerøerne om rettens pleje*) shall be deemed to be proceedings taking place in the courts of the Faroe Islands.

Article 61

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

Article 62

This Convention 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.

40 *Article 63*

The Contracting States recognize that any State which becomes a member of the European Economic Community shall be required to accept this Convention as a basis for the negotiations between the Contracting States and that State necessary to ensure the implemen-
45 tation of the last paragraph of Article 220 of the Treaty establishing the European Economic Community.

The necessary adjustments may be the subject of a special convention between the Contracting States of the one part and the new Member State of the other part.

Article 64

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 Convention; 5
- (c) any declaration received pursuant to Article 60;
- (d) any declaration received pursuant to Article IV of the Protocol;
- (e) any communication made pursuant to Article VI of the Protocol. 10

Article 65

The Protocol annexed to this Convention by common accord of the Contracting States shall form an integral part thereof.

Article 66

This Convention is concluded for an unlimited period. 15

Article 67

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

Article 68 20

This Convention, 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. 25

(Signatures of Plenipotentiaries of the original six Contracting States)

ANNEXED PROTOCOL

The High Contracting Parties have agreed upon the following provisions, which shall be annexed to the Convention:

Article I 30

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. 35

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 II

Without prejudice to any more favourable provisions of national 40

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
5 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 judgment given in the civil action without the person concerned having had the opportunity to arrange for his defence need not be recognized or enforced in the
10 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
20 States.

Unless the State in which service is to take place objects by declaration to the Secretary-General of the Council of the European Communities, such documents may also be sent by the appropriate public officers of the State in which the document has been drawn up
25 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 addressed who is competent to forward it to the addressee. The document shall be forwarded in the manner specified by the law of the State
30 addressed. 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
35 not be resorted to in the Federal Republic of Germany. In that State, any person domiciled in another Contracting State may be sued in the courts in pursuance of Articles 68, 72, 73 and 74 of the code of civil procedure (*Zivilprozeßordnung*) concerning third-party notices.

Judgments given in the other Contracting States by virtue of Article
40 6.2 or Article 10 shall be recognized and enforced in the Federal Republic of Germany in accordance with Title III. Any effects which judgments given in that State may have on third parties by application of Articles 68, 72, 73 and 74 of the code of civil procedure (*Zivilprozeßordnung*) shall also be recognized in the other Contracting
45 States.

Article Va

In matters relating to maintenance, the expression 'court' includes the Danish administrative authorities.

Article Vb

50 In proceedings involving a dispute between the master and a member of the crew of a sea-going ship registered in Denmark, in

Greece or in Ireland, 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, 5
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 10

Articles 52 and 53 of this Convention shall, when applied by Article 69 (5) of the Convention for the European Patent for the Common Market, signed at Luxembourg on 15 December 1975, to the provisions relating to 'residence' in the English text of that Convention, operate as if 'residence' in that text were the same as 'domicile' in 15
Articles 52 and 53.

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 20
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 provisions of Article 86 of the Convention for the European Patent for the Common Market, signed at Luxembourg on 15 25
December 1975.

Article VI

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the text of any provisions of their laws which amend either those articles of their laws mentioned 30
in the Convention or the lists of courts specified in Section 2 of Title III of the Convention.

Section 3

SECOND SCHEDULE

Text of the 1971 Protocol as amended by the 1978 Accession Convention and the 1982 Accession Convention. 35

Article I

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, 40
signed at Brussels on 27 September 1968, and also on the interpretation of the present Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Denmark, Ireland and the United 45
Kingdom of Great Britain and Northern Ireland to the Convention of 27 September 1968 and to this Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Hellenic Republic to the Convention of 27 50
September 1968 and to this Protocol, as adjusted by the 1978 Convention.

Article 2

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

- 5 1. —in Belgium: *la Cour de Cassation — het Hof van Cassatie* and *le Conseil d'État — de Raad van State*,
—in Denmark: *højesteret*,
—in the Federal Republic of Germany: *die obersten Gerichtshöfe des Bundes*,
—in Greece: the *ανώτατα δικαστήρια*,
10 —in France: *la Cour de Cassation* and *le Conseil d'État*,
—in Ireland: the Supreme Court,
—in Italy: *la Corte Suprema di Cassazione*,
—in Luxembourg: *la Cour supérieure de Justice* when sitting as *Cour de Cassation*,
15 —in the Netherlands: *de Hoge Raad*,
— in the United Kingdom: the House of Lords and courts to which application has been made under the second paragraph of Article 37 or under Article 41 of the Convention;
2. the courts of the Contracting States when they are sitting in an
20 appellate capacity;
3. in the cases provided for in Article 37 of the Convention, the courts referred to in that Article.

Article 3

- 25 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
30 Article 2.2 or 2.3, that court may, under the conditions laid down in paragraph 1, request the Court of Justice to give a ruling thereon.

Article 4

- 35 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 2.2. The provisions of this paragraph shall apply only to judgments
40 which have become *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 Con-
45 tracting 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

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

Article 5 10

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. 15

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. 20

Article 6

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

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 the Netherlands Antilles. 25

Notwithstanding the first paragraph, this Protocol shall not apply to: 30

1. the Faroe Islands, unless the Kingdom of Denmark makes a declaration to the contrary,
2. any European territory situated outside the United Kingdom for the international relations of which the United Kingdom is responsible, unless the United Kingdom makes a declaration to the contrary in respect of any such territory. 35

Such declarations may be made at any time by notifying the Secretary-General of the Council of the European Communities.

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. 40

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 27th September, 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters. 45

Article 9

5 The Contracting States recognise 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

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 Article 6.

15

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.

20

Article 12

This Protocol is concluded for an unlimited period.

Article 13

25 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

30 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.

THIRD SCHEDULE

Section 3

Titles V and VI of the 1978 Accession Convention.

TITLE V

35

TRANSITIONAL PROVISIONS

Article 34

40 1. The 1968 Convention and the 1971 Protocol, with the amendments made by this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

2. However, as between the six Contracting States to the 1968 Convention, judgments given after the date of entry into force of this Convention in proceedings instituted before that date shall be recognised and enforced in accordance with the provisions of Title III of the 1968 Convention as amended.

5

3. Moreover, as between the six Contracting States to the 1968 Convention and the three States mentioned in Article 1 of this Convention, and as between those three States, judgments 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 also be recognised and enforced in accordance with the provisions of Title III of the 1968 Convention as amended if jurisdiction was founded upon rules which accorded with the provisions of Title II, as amended, or with provisions of a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

10

15

Article 35

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.

20

Article 36

For a period of three years from the entry into force of the 1968 Convention for the Kingdom of Denmark and Ireland respectively, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of that Convention but also in accordance with the provisions of paragraphs 1 to 6 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.

25

30

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:

35

(a) the claimant is domiciled in the latter State; or 40

(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 45

(e) the claim is for salvage; or

(f) the claim is in respect of a mortgage or hypothecation of the ship arrested. 50

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 subparagraphs (o), (p) or (q) of paragraph 5 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 of 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 subparagraphs (o) and (p) of paragraph 5 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*). 5

TITLE VI

FINAL PROVISIONS

Article 37 10

The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention and of the 1971 Protocol in the Dutch, French, German and Italian languages to the Governments of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland. 15

The texts of the 1968 Convention and the 1971 Protocol, drawn up in the Danish, English and Irish languages, shall be annexed to this Convention. The texts drawn up in the Danish, English and Irish languages shall be authentic under the same conditions as the original texts of the 1968 Convention and the 1971 Protocol. 20

Article 38

This Convention 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 39 25

This Convention shall enter into force, as between the States which shall have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the original Member States of the Community and one new Member State.

It shall enter into force for each new Member State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification. 30

Article 40

The Secretary-General of the Council of the European Communities shall notify the signatory States of: 35

- (a) the deposit of each instrument of ratification,
- (b) the dates of entry into force of this Convention for the Contracting States.

Article 41

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Irish and Italian languages, all seven 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. 40 45

FOURTH SCHEDULE

Section 3

Titles V and VI of the 1982 Accession Convention.

TITLE V

TRANSITIONAL PROVISIONS

5 *Article 12*

1. The 1968 Convention and the 1971 Protocol, as amended by the 1978 Convention and this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the
10 State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

2. However, judgments 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
15 enforced in accordance with the provisions of Title III of the 1968 Convention, as amended by the 1978 Convention and this Convention, if jurisdiction was founded upon rules which accorded with the provisions of Title II of the 1968 Convention, as amended, or with the provisions of a convention which was in force between the
20 State of origin and the State addressed when the proceedings were instituted.

TITLE VI

FINAL PROVISIONS

Article 13

25 The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention, of the 1971 Protocol and of the 1978 Convention in the Danish, Dutch, English, French, German, Irish and Italian languages to the Government of the Hellenic Republic.

30 The texts of the 1968 Convention, of the 1971 Protocol and of the 1978 Convention, drawn up in the Greek language, shall be annexed to this Convention. The texts drawn up in the Greek language shall be authentic under the same conditions as the other texts of the 1968 Convention, the 1971 Protocol and the 1978 Convention.

35 *Article 14*

This Convention 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 15

40 This Convention shall enter into force, as between the States which have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the Hellenic Republic and those States which have put into force the 1978 Convention in accordance with Article 39 of that Convention.

45 It shall enter into force for each Member State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.

Article 16

50 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 dates of entry into force of this Convention for the Contracting States.

Article 17

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

Section 13

FIFTH SCHEDULE

Domicile.

PART I

1. An individual is domiciled in the State, or in a state other than a Contracting State if, but only if, he is ordinarily resident in the State or in that other state.

2. An individual is domiciled in a place in the State if, but only if, he is domiciled in the State and is ordinarily resident or carries on any profession, business or occupation in that place.

PART II

1. Tá sainchónaí ar dhuine sa Stát nó i stát seachas Stát Conarthach i gcás go bhfuil cónaí air de ghnáth sa Stát nó sa stát eile sin, agus sa chás sin amháin.

2. Tá sainchónaí ar dhuine in áit sa Stát i gcás go bhfuil sainchónaí air sa Stát agus go bhfuil cónaí air de ghnáth, nó gairm, gnó nó slí bheatha á sheoladh aige, san áit sin, agus sa chás sin amháin.

PART III

1. A corporation or association has its seat in the State if, but only if—

(a) it was incorporated or formed under the law of the State, or

(b) its central management and control is exercised in the State.

2. A corporation or association has its seat in a particular place in the State if, but only if, it has its seat in the State and—

(a) it has its registered office or some other official address at that place, or

(b) its central management and control is exercised in that place or it is carrying on business in that place.

3. Subject to *paragraph 4* of this Part, a corporation or association has its seat in a state other than the State if, but only if—

(a) it was incorporated or formed under the law of that state, or

(b) its central management and control is exercised in that state.

4. A corporation or association shall not be regarded as having its seat in a Contracting State other than the State if—

(a) it has its seat in the State by virtue of *paragraph 1 (a)* of this Part, or

(b) it is shown that the courts of that other state would not regard it for the purposes of Article 16.2 as having its seat there.

5. In this Part—

“association” means an unincorporated body of persons;

10 “business” includes any activity carried on by a corporation or association;

“corporation” means a body corporate;

15 “official address” means, in relation to a corporation or association, an address which it is required by law to register, notify or maintain for the purpose of receiving notices or other communications.

PART IV

1. Tá suíomh ag corparáid nó comhlachas sa Stát i gcás—

(a) gur corpraíodh í nó gur foirmíodh é faoi dhlí an Stáit, nó

20 (b) go bhfuil bainistíocht lárnach agus rialú na corparáide nó an chomhlachais á bhfeidhmiú sa Stát,

agus sa chás sin amháin.

2. Tá suíomh ag corparáid nó comhlachas in áit áirithe sa Stát i gcás go bhfuil a suíomh nó a shuíomh sa Stát agus—

25 (a) go bhfuil oifig chláráithe nó seoladh éigin eile oifigiúil aici nó aige ag an áit sin, nó

(b) go bhfuil bainistíocht lárnach agus rialú na corparáide nó an chomhlachais á bhfeidhmiú san áit sin nó gnó á sheoladh aici nó aige san áit sin,

agus sa chás sin amháin.

30 3. Faoi réir *mhír 4* den Chuid seo, tá suíomh ag corparáid nó comhlachas i stát seachas an Stát i gcás—

(a) gur corpraíodh í nó gur foirmíodh é faoi dhlí an stáit sin, nó

(b) go bhfuil bainistíocht lárnach agus rialú na corparáide nó an chomhlachais á bhfeidhmiú sa stát sin,

35 agus sa chás sin amháin.

4. Ní mheasfar suíomh corparáide nó comhlachais a bheith i Stát Conarthach seachas an Stát i gcás—

(a) go bhfuil suíomh ag an gcorparáid nó ag an gcomhlachas sa Stát de bhua *mhír 1 (a)* den Chuid seo, nó

40 (b) go dtaispeánfar nach measfadh cúirteanna an stáit eile sin

suíomh a bheith ag an gcorparáid nó ag an gcomhlachas ansin chun críocha Airteagal 16.2.

5. Sa Chuid seo—

ciallaíonn “comhlachas” comhlacht neamhchorpraithe daoine;

ciallaíonn “corparáid” comhlacht corpraithe;

5

folaíonn “gnó” aon ghníomhaíocht atá á seoladh ag corparáid nó comhlachas;

ciallaíonn “seoladh oifigiúil”, i ndáil le corparáid nó comhlachas, seoladh a cheanglaítear uirthi nó air, le dlí, a chlárú, a chur in iúl nó a choimeád chun fógraí nó cumarsáidí eile a fháil.

10

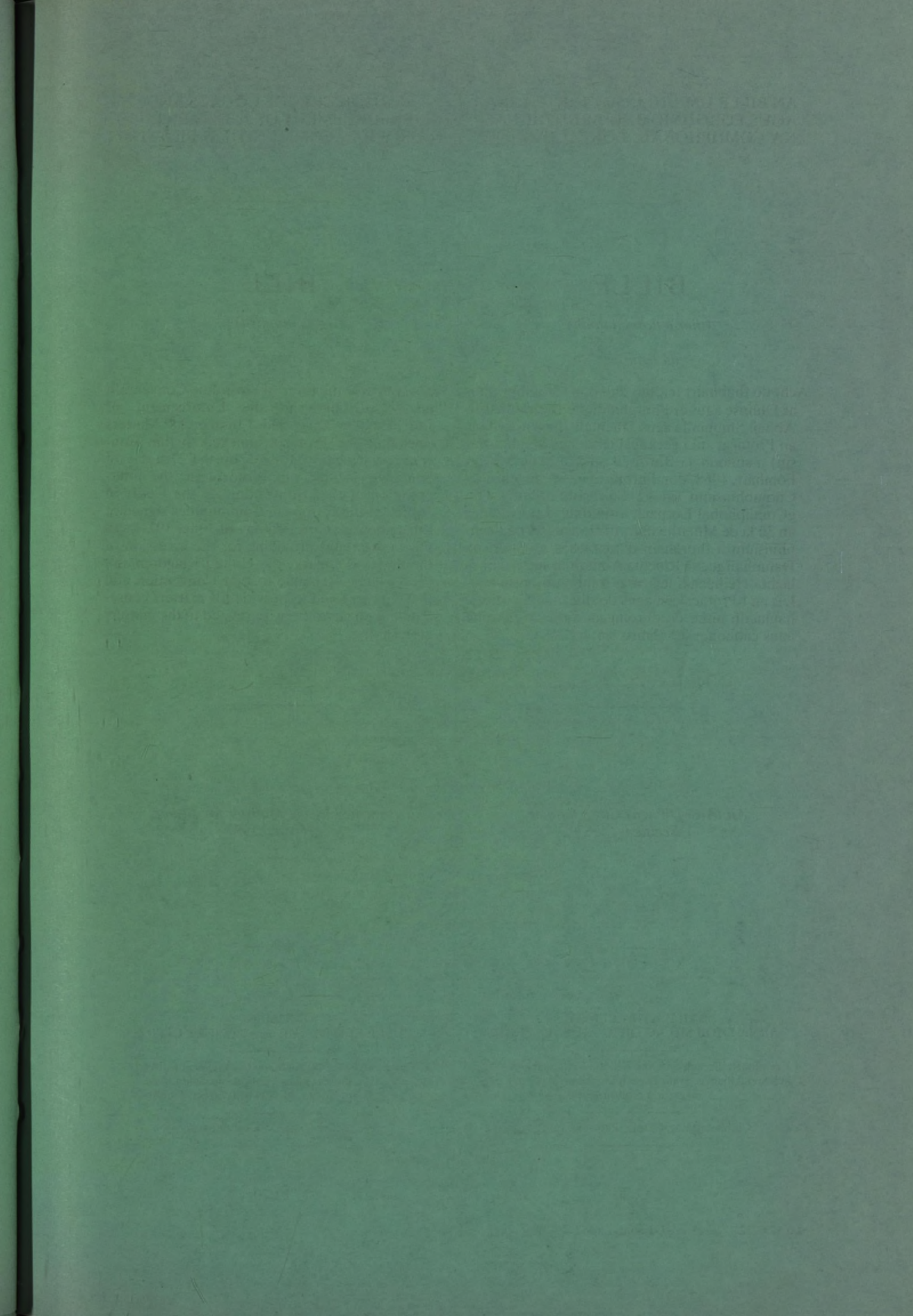
PART V

A trust is domiciled in the State if, but only if, the law of the State is the system of law with which the trust has its closest and most real connection.

PART VI

15

Tá sainchónaí ar iontaobhas sa Stát i gcás gurb é dlí an Stáit an córas dlí is mó a bhfuil dlúthbhaint agus baint dháiríre aige leis, agus sa chás sin amháin.



AN BILLE UM DHLÍNSE CÚIRTEANNA
AGUS FORGHNÍOMHÚ BREITHIÚNAS
(NA COMHPHOBAIL EORPACHA), 1987

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do thabhairt feidhm dhlí don Choinbhinsiún ar Dhlínse agus ar Fhorghníomhú Breithiúnas in Ábhair Shibhialta agus Tráchtála (lena n-áirítear an Prótacal atá i gceangal leis an gCoinbhinsiún sin) a síníodh sa Bhruiséil an 27ú lá de Mheán Fómhair, 1968, don Phrótacal maidir le léiriú an Choinbhinsiúin sin ag Cúirt Bhreithiúnais na gComhphobal Eorpach a síníodh i Lucsamburg an 3ú lá de Mheitheamh, 1971, agus do na Coinbhinsiúin a fhorálann d'aontachas an Stáit, na Danmhairge, na Ríochta Aontaithe agus na Poblachta Heilléanaí leis an gCoinbhinsiún sin agus leis an bPrótacal sin agus do dhéanamh socrú le haghaidh nithe de dhroim na nithe réamhráite agus gaolmhar leo thairis sin.

*An tAire Dlí agus Cirt a thólaic,
1 Bealtaine, 1987*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
Teach Sun Alliance, Sráid Theach Laighean, Baile Átha Cliath
2, nó trí aon díoltóir leabhar.

Clóbhualte ag CAHILL PRINTERS LIMITED.

£2.20

JURISDICTION OF COURTS AND
ENFORCEMENT OF JUDGMENTS
(EUROPEAN COMMUNITIES) BILL, 1987

BILL

(*as initiated*)

entitled

An Act to give the force of law to the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (including the Protocol annexed to that Convention) signed at Brussels on the 27th day of September, 1968, the Protocol on the interpretation of that Convention by the Court of Justice of the European Communities signed at Luxembourg on the 3rd day of June, 1971, and the Conventions providing for the accession of the State, Denmark, the United Kingdom and the Hellenic Republic to that Convention and that Protocol and to provide for matters consequent upon and otherwise related to the matters aforesaid.

*Presented by the Minister for Justice,
1st May, 1987*

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through any bookseller, or directly
from the Government Publications Sale Office,
Sun Alliance House, Molesworth Street, Dublin 2.

Printed by CAHILL PRINTERS LIMITED.

£2.20