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EUROPEAN COMMISSION

Brussels, 14.12.2010  
COM(2010) 748 final

2010/0383 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

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

**(Recast)**

{SEC(2010) 1547 final}  
{SEC(2010) 1548 final}

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. General context**

This proposal is a recasting of Council Regulation (EC) No 44/2001 of 22 December 2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (hereafter "Brussels I").

Regulation Brussels I is the matrix of civil judicial cooperation in the European Union. It applies in a broad range of matters, covering not only contractual but also delictual and proprietary claims. It identifies the most appropriate jurisdiction for solving a cross-border dispute and ensures the smooth recognition and enforcement of judgments issued in another Member State. The Regulation replaced the 1968 Brussels Convention which had been concluded between the then Member States and been successively amended to reflect the Union's successive enlargements. It applies in all Member States, including, by way of a separate international agreement, to Denmark which has a special regime for judicial cooperation under the Treaty on the Functioning of the European Union.

The Regulation entered into force in March 2002. Eight years afterwards, the Commission has reviewed its operation in practice and considered necessary amendments to the instrument.

#### **1.2. Grounds for and objectives of the proposal**

While the Regulation is overall considered to work successfully, the consultation of stakeholders and a number of legal and empirical studies commissioned by the Commission revealed a number of deficiencies in the current operation of the Regulation which should be remedied. Essentially, four main shortcomings can be identified:

- The procedure for recognition and enforcement of a judgment in another Member State ("exequatur") remains an obstacle to the free circulation of judgments which entails unnecessary costs and delays for the parties involved and deters companies and citizens from making full use of the internal market.
- Access to justice in the EU is overall unsatisfactory in disputes involving defendants from outside the EU. With some exceptions, the current Regulation only applies where the defendant is domiciled inside the EU. Otherwise jurisdiction is governed by national law. The diversity of national law leads to unequal access to justice for EU companies in transactions with partners from third countries: some can easily litigate in the EU, others cannot, even in situations where no other court guaranteeing a fair trial is competent. In addition, where national legislation does not grant access to court in disputes with parties outside the EU, the enforcement of mandatory EU law protecting e.g. consumers, employees or commercial agents is not guaranteed.
- The efficiency of choice of court agreements needs to be improved. Currently, the Regulation obliges the court designated by the parties in a choice of court agreement to stay proceedings if another court has been seised first. This rule enables litigants acting in bad faith to delay the resolution of the dispute in the agreed forum by first seizing a non-competent court. This possibility creates additional costs and delays and undermines the

legal certainty and predictability of dispute resolution which choice of court agreements should bring about.

- The interface between arbitration and litigation needs to be improved. Arbitration is excluded from the scope of the Regulation. However, by challenging an arbitration agreement before a court, a party may effectively undermine the arbitration agreement and create a situation of inefficient parallel court proceedings which may lead to irreconcilable resolutions of the dispute. This leads to additional costs and delays, undermines the predictability of dispute resolution and creates incentives for abusive litigation tactics.

A detailed analysis of the problems of the current system as well as the impacts of the different options considered for addressing them can be found in the Impact Assessment accompanying this proposal.

The overall objective of the revision is to further develop the European area of justice by removing the remaining obstacles to the free movement of judicial decisions in line with the principle of mutual recognition. The importance of this aim has been emphasised by the European Council in its 2009 Stockholm Programme<sup>1</sup>. More specifically, the proposal aims at facilitating cross-border litigation and the free circulation of judgments in the European Union. The revision should also contribute to create the necessary legal environment for the European economy to recover.

## 2. CONSULTATION AND IMPACT ASSESSMENT

This proposal was preceded by an extensive consultation of the interested public, Member States, other institutions and experts on the existing problems of the current system and possible solutions to it. On 21 April 2009, the Commission adopted a report on the application of the Regulation and a Green Paper putting forward suggestions for its review on which a total of 130 responses was received. The Commission took into account the results of several studies on different aspects of the revision, notably a 2007 study on the practical application of the Regulation<sup>2</sup> and a 2006 study on residual jurisdiction<sup>3</sup>. Empirical data on the impact of the different options for reform were collected by two further external studies<sup>4</sup>. Two conferences on the revision were co-organised by the Commission in 2009<sup>5</sup> and 2010<sup>6</sup>. A meeting with national experts was held in July 2010. A separate expert group was constituted on the issue of arbitration and three meetings were held in July, September and October 2010.

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<sup>1</sup> Adopted at the meeting of the European Council of 10th and 11th December 2009.

<sup>2</sup> Conducted by Prof. Burkhard Hess of the University of Heidelberg and available at [http://ec.europa.eu/justice\\_home/doc\\_centre/civil/studies/doc\\_civil\\_studies\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/civil/studies/doc_civil_studies_en.htm)

<sup>3</sup> Conducted by Prof. Arnaud Nuyts of the University of Brussels and available at [http://ec.europa.eu/justice\\_home/doc\\_centre/civil/studies/doc\\_civil\\_studies\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/civil/studies/doc_civil_studies_en.htm)

<sup>4</sup> Study on Data Collection and Impact Analysis Certain Aspects of a Possible Revision of Council Regulation No 44/2001 on Jurisdiction and the REcognition and Enforcement of Judgments in civil and Commercial matters, conducted by the Centre for Strategy & Evaluation Services (CSES), 2010 available at [http://ec.europa.eu/justice/doc\\_centre/civil/studies/doc\\_civil\\_studies\\_en.htm](http://ec.europa.eu/justice/doc_centre/civil/studies/doc_civil_studies_en.htm); Study to evaluate the impact of a possible ratification by the European Community of the 2005 Hague Convention on Choice of Court Agreements conducted by GHK, 2007, available at [http://ec.europa.eu/dgs/justice\\_home/evaluation/dg\\_coordination\\_evaluation\\_annexe\\_en.htm](http://ec.europa.eu/dgs/justice_home/evaluation/dg_coordination_evaluation_annexe_en.htm).

<sup>5</sup> Conference organised jointly with the University of Heidelberg and the Journal of Private International Law.

<sup>6</sup> Conference organised jointly with the Spanish Presidency.

It results from the consultation process that views of stakeholders on the main elements of the reform are as follows. With respect to the abolition of *exequatur*, a large majority of stakeholders and all Member States supported the objective of a free movement of judgments within the European Union. There was also a general support for the abolition of the *exequatur* procedure as a means to achieve that objective. A very large majority of stakeholders opined that the abolition of *exequatur* should be accompanied by safeguards, in particular to protect the rights of defence of the party against whom the enforcement is sought. Views differed on the extent of such safeguards and on the place where such safeguards should be available (Member State of enforcement or Member State of origin). Specific concerns were expressed with respect to the abolition of the *exequatur* in defamation cases and in collective redress proceedings. With respect to the operation of the Regulation in the international legal order, there was a general opinion that multilateral negotiations at international level would constitute the most appropriate framework for regulation. Failing such framework, views diverged on the best way forward. While a number of stakeholders and Member States supported the extension of the jurisdiction rules to third State defendants, particularly with the aim of ensuring access to justice before the courts in Europe, most stakeholders thought that the recognition and enforcement of third State judgments should be left to a multilateral framework which would ensure reciprocity at international level. With respect to choice of court agreements, there was a large support from stakeholders and Member States to improve the effectiveness of such agreements. Among the various ways to achieve that objective, preference was expressed for granting priority to the chosen court to decide on its jurisdiction. Such a mechanism would largely accord with the system established in the 2005 Hague Choice of Court Agreements Convention, thus ensuring a coherent approach within the Union and at international level were the Union to decide to conclude the 2005 Convention in the future. With respect to the interface between the Regulation and arbitration, while many stakeholders recognised the problem and supported future action, several arbitrators' associations expressed concern on the impact of any regulation on the leading role of European arbitration centres at world-wide level. Views diverged on whether the best way forward, i.e. either to actively promote arbitration agreements by avoiding parallel proceedings and abusive litigation tactics or to exclude arbitration more broadly from the scope of the Regulation. In any event, most stakeholders expressed general satisfaction with the operation of the 1958 New York Convention which should not be undermined by any Union action on the matter.

The Commission analysed the costs and benefits of the main aspects of the proposed reform in its Impact Assessment which accompanies this proposal.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Summary of the proposed action**

The proposed elements of the reform are as follows:

- Abolition of the intermediate procedure for the recognition and enforcement of judgments (*exequatur*) with the exception of judgments in defamation cases and judgments given in collective compensatory proceedings;
- Extension of the jurisdiction rules of the Regulation to disputes involving third country defendants, including regulating the situations where the same issue is pending before a court inside and outside the EU;

- Enhancement of the effectiveness of choice of court agreements;
- Improvement of the interface between the Regulation and arbitration;
- Better coordination of proceedings before the courts of Member States;
- Improvement of access to justice for certain specific disputes; and
- Clarification of the conditions under which provisional and protective measures can circulate in the EU.

### 3.1.1. *Abolition of exequatur*

Civil judicial cooperation has developed in the context of the creation of an internal market in Europe based on the premise of mutual recognition of judgments. Such mutual recognition has been gradually improved by lowering the controls with respect to foreign judgments in the Union. Today, judicial cooperation and the level of trust among Member States has reached a degree of maturity which permits the move towards a simpler, less costly, and more automatic system of circulation of judgments, removing the existing formalities among Member States. The proposal therefore abolishes the *exequatur* procedure for all judgments covered by the Regulation's scope with the exception of judgments in defamation and compensatory collective redress cases. The abolition of *exequatur* will be accompanied by procedural safeguards which ensure that the defendant's right to a fair trial and his rights of defence as guaranteed in Article 47 of the EU Charter on Fundamental Rights are adequately protected. The defendant would have three main remedies at his disposal by which he could prevent in exceptional circumstances that a judgment given in one Member State takes effect in another Member State: first, he would be able to contest the judgment in the Member State of origin if he was not properly informed about the proceedings in that State. Second, the proposal would create an extraordinary remedy in the Member State of enforcement which would enable the defendant to contest any other procedural defects which might have arisen during the proceedings before the court of origin and which may have infringed his right to a fair trial. A third remedy would enable the defendant to stop the enforcement of the judgment in case it is irreconcilable with another judgment which has been issued in the Member State of enforcement or - provided that certain conditions are fulfilled – in another country. These safeguards address the situations which are currently addressed by certain of the existing refusal grounds, in particular in order to ensure the protection of the rights of the defence, with the key difference that control of substantive public policy is abolished. As such, the time and costs of the *exequatur* procedure will be saved while the necessary protection of defendants will remain ensured.

The proposal also contains a series of standard forms which aim at facilitating the recognition or enforcement of the foreign judgment in the absence of the *exequatur* procedure as well as the application for a review under the procedure safeguarding the rights of defence described above. These forms will facilitate the enforcement of the judgment by the competent authorities, in particular where interest and costs have to be calculated. They also reduce the need for a translation of the judgment and ease the application for a review of the judgment by the defendant who has to act in another Member State.

The proposal retains the *exequatur* procedure for judgments in defamation cases in which an individual claims that rights relating to his personality or privacy have been violated by the media. These cases are particularly sensitive and Member States have adopted diverging

approaches on how to ensure compliance with the various fundamental rights affected, such as human dignity, respect for private and family life, protection of personal data, freedom of expression and information. These divergences, in combination with the absence of a harmonised conflict rule at Union level (see Article 1(2)(g) of Regulation (EC) No 864/2007 ("Rome II")<sup>7</sup>), make it premature to presume the required level of trust yet exists between legal systems in order to move beyond the *status quo* on this matter. It therefore seems preferable to retain temporarily the *exequatur* procedure for judgments in defamation cases, pending greater clarity on either substantive and/or conflict rules in this area..

*Exequatur* is equally retained for judgments in proceedings brought by a group of claimants, a representative entity or a body acting in the public interest and which concern the compensation of harm caused by unlawful business practices to a multitude of claimants ("collective redress"). The existing mechanisms to compensate a group of victims harmed by illegal business practices vary widely throughout the EU. Essentially, every national system of compensatory redress is unique and there are no two national systems that are alike in this area. Some of the procedures only apply in very specific sectors (e.g. the recovery of capital investment losses in Germany or damage caused by anti-competitive practices in the United Kingdom); others have a larger scope (e.g. the Spanish collective redress procedures). A second difference concerns the legal standing in compensatory redress proceedings: some Member States have vested public authorities with the power to institute proceedings in certain areas (e.g. the Ombudsman in Finland), others grant standing to private organisations such as consumer associations (e.g. Bulgaria) or to individuals acting on behalf of a group (e.g. Portugal). Many Member States have a combination of several rules on standing. A further difference concerns the category of victims that can make use of compensatory collective redress. Most of the national systems referred to above allow for compensatory redress for consumers whereas only a few also allow for compensatory redress for other victims such as small businesses. Differences also relate to the effect of a judgment on the members of the group concerned: in most Member States, the decision only binds those who have expressly consented to the proceedings ("opt-in", e.g. Sweden, Italy). In a few Member States, the decision becomes binding for all members of the group unless they opted out (Portugal, Denmark, Netherlands). In addition, there are differences between Member States as to the moment at which those entitled to claims are individually identified; in some Member States, the identification must take place when the representative action is brought (e.g. the United Kingdom), whilst in others, it can take place at a later stage (e.g. Poland and Spain). There are also notable differences governing the funding of collective redress actions, the distribution of proceeds and the use of alternative dispute resolution mechanisms. In view of these large differences, the required level of trust cannot be presumed at this stage. That is why the Commission is to carry out a public consultation on a European approach to collective redress to identify which forms of collective redress could fit into the EU legal system and into the legal orders of the 27 EU Member States. The public consultation shall allow inter alia to determine how efficient the rules on European civil and procedural law are for collective actions and judgments to be enforceable throughout the EU. Pending the outcome of this consultation, it is premature to move beyond the *status quo* in matters concerning compensatory collective redress by abolishing the *exequatur* procedure for judgments granted in collective proceedings. Should the consultation lead to the adoption of harmonising or approximating measures in this field, the provisions of the present draft regulation on suppression of the *exequatur* should be extended in a consistent manner to such procedures. Such an extension should be without prejudice to the possibility for the Commission to

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<sup>7</sup> OJ L 199, 31.7.2007, p. 40.

propose the abolition of intermediate measures for collective damages proceedings even in the absence of such harmonisation or approximation measures, in the light of evidence regarding the efficiency and acceptability of such a development in the European judicial order.

### 3.1.2. *Improving the functioning of the Regulation in the international legal order*

Several modifications are proposed with the aim of improving the functioning of the Regulation in the international legal order.

- The proposal extends the Regulation's jurisdiction rules to third country defendants. This amendment will generally extend the possibilities of companies and citizens to sue third country defendants in the EU because the special rules of jurisdiction which e.g. establish jurisdiction at the place of contractual performance become available in these cases. More specifically, the amendment will ensure that the protective jurisdiction rules available for consumers, employees and insured will also apply if the defendant is domiciled outside the EU.
- The proposal further harmonises the subsidiary jurisdiction rules and creates two additional fora for disputes involving defendants domiciled outside the EU. First, the proposal provides that a non-EU defendant can be sued at the place where moveable assets belonging to him are located provided their value is not disproportionate to the value of the claim and that the dispute has a sufficient connection with the Member State of the court seised. In addition, the courts of a Member State will be able to exercise jurisdiction if no other forum guaranteeing the right to a fair trial is available and the dispute has a sufficient connection with the Member State concerned ("*forum necessitatis*"). The harmonisation of subsidiary jurisdiction ensures that citizens and companies have equal access to a court in the Union and that there is a level playing field for companies in the internal market in this respect. The harmonised rules compensate the removal of the existing national rules. First, the forum of the location of assets balances the absence of the defendant in the Union. Such a rule currently exists in a sizeable group of Member States and has the advantage of ensuring that a judgment can be enforced in the State where it was issued. Second, the forum of necessity guarantees the right to a fair trial of EU claimants, which is of particular relevance for EU companies investing in countries with immature legal systems.
- The proposal introduces a discretionary *lis pendens* rule for disputes on the same subject matter and between the same parties which are pending before the courts in the EU and in a third country. A court of a Member State can exceptionally stay proceedings if a non-EU court was seised first and it is expected to decide within a reasonable time and the decision will be capable of recognition and enforcement in that Member State. This amendment aims at avoiding parallel proceedings in- and outside the EU.



### 3.1.3. *Enhancement of the effectiveness of choice of court agreements*

The proposal includes two amendments which aim at improving the effectiveness of choice of court agreements:

Where the parties have designated a particular court or courts to resolve their dispute, the proposal gives priority to the chosen court to decide on its jurisdiction, regardless of whether it is first or second seised. Any other court has to stay proceedings until the chosen court has established or – in case the agreement is invalid – declined jurisdiction. This modification will increase the effectiveness of choice of court agreements and eliminate the incentives for abusive litigation in non-competent courts.

Moreover, the proposal introduces a harmonised conflict of law rule on the substantive validity of choice of court agreements, thus ensuring a similar outcome on this matter whatever the court seised.

Both modifications reflect the solutions established in the 2005 Hague Convention on the Choice of Court Agreements, thereby facilitating a possible conclusion of this Convention by the European Union.

### 3.1.4. *Improvement of the interface between the regulation and arbitration*

The proposal includes a specific rule on the relation between arbitration and court proceedings. It obliges a court seised of a dispute to stay proceedings if its jurisdiction is contested on the basis of an arbitration agreement and an arbitral tribunal has been seised of the case or court proceedings relating to the arbitration agreement have been commenced in the Member State of the seat of the arbitration. This modification will enhance the effectiveness of arbitration agreements in Europe, prevent parallel court and arbitration proceedings, and eliminate the incentive for abusive litigation tactics.

### 3.1.5. *Better coordination of legal proceedings before the courts of Member States*

A further set of modifications aims at improving the coordination of legal proceedings in the Member States. These are as follows:

- The proposal aims at improving the general *lis pendens* rule by prescribing a time limit for the court first seised to decide on its jurisdiction. In addition, the amendment provides for an exchange of information between the courts seised of the same matter.
- The proposal facilitates the consolidation of related actions by doing away with the requirement that consolidation has to be possible under national law.
- Concerning provisional, including protective measures, the proposal provides for the free circulation of those measures which have been granted by a court having jurisdiction on the substance of the case, including – subject to certain conditions – of measures which have been granted *ex parte*. By contrast, the proposal prevents the circulation of provisional measures ordered by a court other than the one having jurisdiction on the substance. Given the wide divergence of national law on this issue, the effect of these measures should be limited to the territory of the Member State where they were granted, thereby preventing the risk of abusive

forum-shopping. Finally, if proceedings on the substance are pending in one court and another one is asked to issue a provisional measure, the proposal requires the two courts to cooperate in order to ensure that all circumstances of the case are taken into account when a provisional measure is granted.

### 3.1.6. *Improving access to justice*

A final set of amendments improves the practical functioning of the jurisdiction rules. These include:

- the creation of a forum for claims of rights *in rem* at the place where moveable assets are located;
- the possibility for employees to bring actions against multiple defendants in the employment area under Article 6(1). This possibility existed under the 1968 Brussels Convention. Its reinsertion in the Regulation will benefit employees who wish to bring proceedings against joint employers established in different Member States (see the situation referred to in Case C-462/06). Restoring the possibility to consolidate proceedings against several defendants in this context will mainly benefit employees. The reverse situation, i.e. where an employer would consolidate proceedings against several employees, does not seem to arise in practice in matters of individual contracts of employment;
- the possibility to conclude a choice of court agreement for disputes concerning the tenancy of premises for professional use, and
- the mandatory information of a defendant entering an appearance about the legal consequences of not contesting the court's jurisdiction.

## 3.2. **Legal basis**

This proposal amends Regulation 44/2001 which was based on Article 61 (c) and 67 (1) of the Treaty establishing the European Community. Since the entry into force of the Treaty of Lisbon, the corresponding legal base is Article 81 (2) (a), (c) and (e) of the Treaty on the Functioning of the European Union.

Title V of Part Three of the Treaty on the Functioning of the European Union is not applicable to Denmark by reason of the Protocol on the position of Denmark annexed to the Treaties. However, the rules of Regulation 44/2001 have been extended to Denmark by virtue of the agreement of 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. This agreement also contains a mechanism which enables Denmark to apply any instrument modifying Regulation 44/2001.

Title V is also not applicable to the United Kingdom and Ireland, unless those two countries decide otherwise, in accordance with the relevant rules of the Protocol on their position in respect of the area of Freedom, Security and Justice.

## 3.3. **Subsidiarity and Proportionality**

The different elements of the revision outlined above comply with the requirements of subsidiarity and proportionality. As to subsidiarity, the abolition of *exequatur* cannot be

achieved by the Member States because the procedure has been harmonised by Regulation Brussels I and can, therefore, only be amended by way of a regulation. The same reasoning applies for the improvement of the existing rules on jurisdiction and the coordination of proceedings between Member States. As regards the proposed harmonisation of Member States' residual jurisdiction, the current divergence of national rules creates unequal market conditions for companies engaged in transactions with parties outside the EU. Only legislation at European level can create a level playing field. As concerns finally the interface with arbitration, Member States cannot by themselves ensure that arbitration proceedings in their Member State are properly coordinated with court proceedings going on in another Member State because the effect of national legislation is limited by the territoriality principle. Action at EU level is therefore necessary.

The impact assessment attached to this proposal demonstrates that the benefits of each of the proposed amendments outweigh their costs and the proposed measures are therefore proportionate.

### **3.4. Impact on fundamental rights**

As set out in detail in the impact assessment accompanying this proposal and in accordance with the Union's Strategy for the effective implementation of the Charter of Fundamental Rights of the European Union<sup>8</sup>, all elements of the reform respect the rights set out in the Charter of Fundamental rights, and, in particular, the right to an effective remedy and the right to a fair trial guaranteed in its Article 47. They also improve the level of consumer protection referred to in Article 38. The abolition of *exequatur* will be accompanied by the creation of special review procedures which ensure that the defendant has an effective remedy and that a judgment which does not respect his right to a fair trial or rights of defence will not take effect vis-à-vis him. The changes envisaged for the international legal order will improve access to justice in the European Union for citizens, in particular weaker parties, and companies. The elimination of the possibilities of circumventing a choice of court or arbitration agreement reduces the risk of parallel proceedings, thereby improving the general efficiency of justice and the freedom to conduct a business as referred to in Article 16 of the Charter. Finally, nothing in this Regulation affects the fundamental right of workers and employers, or their respective organisations, to negotiate and conclude collective agreements and, in cases of conflicts of interests, to take collective action to defend their interests, including strike action, as referred to in Article 28 of the Charter.

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<sup>8</sup> Communication from the Commission, COM(2010) 573final of 19.10.2010.

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↓ 44/2001

2010/0383 (COD)

Proposal for a

**COUNCIL REGULATION (EC) No 44/2001 OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL**

**of 22 December 2000**

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

**(Recast)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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↓ 44/2001 (adapted)

Having regard to the Treaty ~~establishing the European Community~~  on the Functioning of the European Union  , and in particular Article ~~61(e)~~  67(4)  and Article ~~67(1)~~  81(2)(a), (c), and (e)  thereof,

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↓ 44/2001

Having regard to the proposal from the European Commission<sup>9</sup>,

After transmission of the draft legislative act to the national Parliaments,

~~Having regard to the opinion of the European Parliament<sup>10</sup>,~~

Having regard to the opinion of the European Economic and Social Committee<sup>11</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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↓ new

(1) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters<sup>12</sup> has been

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<sup>9</sup> OJ C 376, 28.12.1999, p. 1.

<sup>10</sup> Opinion delivered on 21 September 2000 (not yet published in the Official Journal).

<sup>11</sup> OJ C 117, 26.4.2000, p. 6. OJ C [...], [...], p. [...].

amended several times<sup>13</sup>. Since further amendments are to be made, it should be recast in the interests of clarity.

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↓ 44/2001 recital 1 (adapted)

- (2) The ~~Community~~ ☒ Union ☒ has set itself the objective of maintaining and developing an area of freedom, security and justice, ~~in which the free movement of persons is ensured~~ ☒ facilitating access to justice, in particular through the principle of mutual recognition of judicial and extra-judicial decisions in civil matters ☒ . In order to establish progressively such an area, the ~~Community~~ ☒ Union ☒ should adopt, amongst other things, the measures relating to judicial cooperation in civil matters ~~which are~~ ☒ , particularly when ☒ necessary for the ~~sound operation~~ ☒ proper functioning ☒ of the internal market.
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↓ 44/2001 recital 2

⇒ new

- (3) Certain differences between national rules governing jurisdiction and recognition of judgments hamper the sound operation of the internal market. Provisions to unify the rules of conflict of jurisdiction in civil and commercial matters and ~~to simplify the formalities with a view~~ to ⇒ ensure ⇐ rapid and simple recognition and enforcement of judgments from Member States bound by this Regulation are essential.
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↓ 44/2001 recital 3 (adapted)

- (4) This area is within the field of judicial cooperation in civil matters within the meaning of Article ~~65~~ ☒ 81 ☒ of the Treaty ☒ on the Functioning of the European Union ☒ .
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↓ 44/2001 recital 6 (adapted)

- (5) In order to attain the objective of free movement of judgments in civil and commercial matters, it is necessary and appropriate that the rules governing jurisdiction and the recognition and enforcement of judgments be governed by a ~~Community~~ legal instrument ☒ of the Union ☒ which is binding and directly applicable.
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↓ 44/2001 recital 4 (adapted)

- (6) ☒ Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures ☒ in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. ☒ In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. ☒
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<sup>12</sup> OJ L 012, 16.1.2001, p. 1.

<sup>13</sup> See Annex VII.

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↓ 44/2001 recital 5 (adapted)

- (7) On 27 September 1968 the Member States, acting under Article 293, fourth indent, of the Treaty  establishing the European Community  , concluded the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, as amended by Conventions on the Accession of the New Member States to that Convention (hereinafter referred to as the ‘Brussels Convention’)<sup>14</sup>. On 16 September 1988 Member States and EFTA States concluded the Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, which is a parallel Convention to the 1968 Brussels Convention.
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↓ new

- (8) On 22 December 2000, the Council adopted Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters, which replaced the Brussels Convention insofar as Union territory is concerned as between all Member States except Denmark. By Council Decision 2006/325/EC of 27 April 2006, the Union concluded an agreement with Denmark ensuring the application of the provisions of Regulation No 44/2001 in Denmark. The 1988 Lugano Convention was revised by the Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, concluded on 30 October 2007 by the Union, Denmark and EFTA states<sup>15</sup>. Continuity in the interpretation of these Conventions and this Regulation should be ensured.
- (9) On 21 April 2009, the Commission adopted a report on the application of Regulation (EC) No 44/2001<sup>16</sup>. The report concluded that, in general, the operation of the Regulation is satisfactory, but that it is desirable to improve the application of certain of its provisions, further facilitate the free circulation of judgments, and further enhance access to justice.
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↓ 44/2001 recital 7 (adapted)

- (10) The scope of this Regulation should cover all the main civil and commercial matters apart from certain well-defined matters.  In light of the adoption of Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, these matters should be excluded from the scope of this Regulation.

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<sup>14</sup> OJ L 299, 31.12.1972, p. 32.OJ L 304, 30.10.1978, p. 1.OJ L 388, 31.12.1982, p. 1.OJ L 285, 3.10.1989, p. 1.OJ C 15, 15.1.1997, p. 1.For a consolidated text, see OJ C 27, 26.1.1998, p. 1.

<sup>15</sup> OJ L 339, 21.12.2007, p. 1.

<sup>16</sup> Report from the Commission to the European Parliament, the Council and the Economic and Social Committee on the application of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, COM (2009) 174 final.

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↓ new

(11) This Regulation does not apply to arbitration, save in the limited case provided for therein. In particular, it does not apply to the form, existence, validity or effects of arbitration agreements, the powers of the arbitrators, the procedure before arbitral tribunals, and the validity, annulment, and recognition and enforcement of arbitral awards.

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↓ 44/2001 recital 8

~~There must be a link between proceedings to which this Regulation applies and the territory of the Member States bound by this Regulation. Accordingly common rules on jurisdiction should, in principle, apply when the defendant is domiciled in one of those Member States.~~

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↓ 44/2001 recital 9

~~A defendant not domiciled in a Member State is in general subject to national rules of jurisdiction applicable in the territory of the Member State of the court seised, and a defendant domiciled in a Member State not bound by this Regulation must remain subject to the Brussels Convention.~~

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↓ 44/2001 recital 10

~~For the purposes of the free movement of judgments, judgments given in a Member State bound by this Regulation should be recognised and enforced in another Member State bound by this Regulation, even if the judgment debtor is domiciled in a third State.~~

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↓ 44/2001 recital 11

(12) The rules of jurisdiction should be highly predictable and founded on the principle that jurisdiction is generally based on the defendant's domicile and jurisdiction should always be available on this ground save in a few well-defined situations in which the subject-matter of the litigation or the autonomy of the parties warrants a different linking factor. The domicile of a legal person must be defined autonomously so as to make the common rules more transparent and avoid conflicts of jurisdiction.

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↓ 44/2001 recital 12

⇒ new

(13) In addition to the defendant's domicile, there should be alternative grounds of jurisdiction based on a close link between the court and the action or in order to facilitate the sound administration of justice. ⇒ The existence of a close link should ensure legal certainty avoiding that the defendant is sued before a court of a Member State which was not reasonably foreseeable for him. This is important, particularly in disputes concerning non-contractual obligations arising out of violations of privacy and rights relating to personality, including defamation. ⇐

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↓ 44/2001 recital 13

- (14) In relation to insurance, consumer contracts and employment, the weaker party should be protected by rules of jurisdiction more favourable to his interests than the general rules provide for.
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↓ 44/2001 recital 14

- (15) The autonomy of the parties to a contract, other than an insurance, consumer or employment contract, where only limited autonomy to determine the courts having jurisdiction is allowed, must be respected subject to the exclusive grounds of jurisdiction laid down in this Regulation.
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↓ new

- (16) In order to promote the interests of claimants and defendants and promote the proper administration of justice within the Union, the circumstance that the defendant is domiciled in a third State should no longer entail the non-application of certain Union rules on jurisdiction, and there should no longer be any referral to national law.

- (17) This Regulation should therefore establish a complete set of rules on international jurisdiction of the courts in the Member States. The existing rules on jurisdiction ensure a close link between proceedings to which this Regulation applies and the territory of the Member States which justifies their extension to defendants wherever they are domiciled. In addition, this Regulation should determine the cases in which a court in a Member State may exercise subsidiary jurisdiction.
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↓ 44/2001 recital 15

- (18) In the interests of the harmonious administration of justice it is necessary to minimise the possibility of concurrent proceedings and to ensure that irreconcilable judgments will not be given in two Member States. There must be a clear and effective mechanism for resolving cases of *lis pendens* and related actions and for obviating problems flowing from national differences as to the determination of the time when a case is regarded as pending. For the purposes of this Regulation that time should be defined autonomously.
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↓ new

- (19) The effectiveness of choice of court agreements should be improved in order to give full effect to the will of the parties and avoid abusive litigation tactics. This Regulation should therefore grant priority to the court designated in the agreement to decide on its jurisdiction, regardless of whether it is first or second seised.

- (20) The effectiveness of arbitration agreements should also be improved in order to give full effect to the will of the parties. This should be the case, in particular, where the agreed or designated seat of an arbitration is in a Member State. This Regulation should therefore contain special rules aimed at avoiding parallel proceedings and abusive litigation tactics in those circumstances. The seat of the arbitration should



refer to the seat selected by the parties or the seat designated by an arbitral tribunal, by an arbitral institution or by any other authority directly or indirectly chosen by the parties.

(21) A flexible mechanism should exist allowing the courts in the Member States to take into account proceedings pending before the courts of third States, considering in particular the proper administration of justice and whether or not any third State judgment is capable of recognition and enforcement in that Member State.

(22) The notion of provisional, including protective measures should be clarified. They should include, in particular, protective orders aimed at obtaining information or preserving evidence, thus covering search and seizure orders as referred to in Article 6 and 7 of Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights<sup>17</sup>. They should not include measures which are not of a protective nature, such as measures ordering the hearing of a witness for the purpose of enabling the applicant to decide whether to bring a case.

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↓ 44/2001 recital 16

~~Mutual trust in the administration of justice in the Community justifies judgments given in a Member State being recognised automatically without the need for any procedure except in cases of dispute.~~

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↓ 44/2001 recital 17

~~By virtue of the same principle of mutual trust, the procedure for making enforceable in one Member State a judgment given in another must be efficient and rapid. To that end, the declaration that a judgment is enforceable should be issued virtually automatically after purely formal checks of the documents supplied, without there being any possibility for the court to raise of its own motion any of the grounds for non-enforcement provided for by this Regulation.~~

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↓ 44/2001 recital 18

~~However, respect for the rights of the defence means that the defendant should be able to appeal in an adversarial procedure, against the declaration of enforceability, if he considers one of the grounds for non-enforcement to be present. Redress procedures should also be available to the claimant where his application for a declaration of enforceability has been rejected.~~

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↓ new

(23) Mutual trust in the administration of justice in the Union and the aim of making cross-border litigation less time consuming and costly justify the abolition of the existing intermediate measures to be taken prior to enforcement in the Member State in which enforcement is sought. As a result, a judgment given by the courts of a Member State

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<sup>17</sup> OJ L 157, 30.4.2004, p. 45.

should, for enforcement purposes, be treated as if it had been delivered in the Member State in which enforcement is sought. However, in the light of the divergences between Member States' systems and the particular sensitivity of matters relating to defamation and compensation obtained in collective proceedings, the current procedure for recognition and enforcement should be maintained for the time being for judgments given on such matters, pending further developments of the law in this area. The scope of the specific provision relating to defamation should correspond to the scope of the exclusion of this matter in Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) and should be interpreted in the same way. The provisions abolishing intermediate enforcement measures should be extended to judgments ordering compensation in collective proceedings in the event of adoption of measures for the harmonisation or approximation of the procedural rules applicable to such proceedings. Such an extension should be without prejudice to the possibility for the Commission to propose the abolition of intermediate measures for collective damages proceedings even in the absence of such harmonisation or approximation measures, in the light of evidence regarding the efficiency and acceptability of such a development in the European judicial order.

(24) The abolition of intermediate measures should be accompanied by necessary safeguards aimed in particular at ensuring full respect of the rights of the defence and fair trial, as established in Article 47 of the Charter of Fundamental Rights of the European Union. This requires putting in place, at the stage of enforcement, extraordinary remedies for the benefit of defendants who did not enter an appearance as a result of a lack of notice or who otherwise suffered procedural defects in the proceedings before the court of origin which may amount to an infringement of Article 47 of the Charter.

(25) The removal of intermediate measures requires an adaptation of the free circulation of provisional, including protective measures. Where such measures are ordered by a court having jurisdiction as to the substance of a dispute, their free circulation should be ensured. Where, however, such measures are adopted by a court not having jurisdiction as to the substance, the effect of such measures should be confined to the territory of that Member State. Furthermore, the free circulation of measures ordered *ex parte* should be allowed if accompanied by appropriate safeguards.

↓ 44/2001 recital 19 (adapted)

(26) Continuity between the Brussels Convention and this Regulation should be ensured, and transitional provisions should be laid down to that end. The same need for continuity applies as regards the interpretation of the Brussels Convention ~~and~~ and the Regulations replacing it ~~by~~ by the Court of Justice of the European Communities ~~Union~~ and the 1971 Protocol<sup>18</sup> ~~should remain applicable also to cases already pending when this Regulation enters into force.~~

<sup>18</sup> OJ L 204, 2.8.1975, p. 28; OJ L 304, 30.10.1978, p. 1; OJ L 388, 31.12.1982, p. 1; OJ L 285, 3.10.1989, p. 1; OJ C 15, 15.1.1997, p. 1. For a consolidated text see OJ C 27, 26.1.1998, p. 28.

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↓ new

(27) This Regulation should ensure full respect for fundamental rights as set out in the Charter of Fundamental Rights of the European Union, in particular the right to an effective remedy and the right to a fair trial guaranteed in Article 47 of the Charter. Nothing in this Regulation should affect the freedom of expression and information (Article 11), the right to private and family life (Article 7), nor the right of workers and employers, or their respective organisations, in accordance with Union law and national law and practices, to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action (Article 28).

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↓ 44/2001 recital 20 (adapted)  
⇒ new

(28) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, ~~have given notice of their wish to take~~ ☒ took ☒ part in the adoption and application of ~~this~~ Regulation (EC) No 44/2001. ⇒ In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, [the United Kingdom and Ireland have notified their wish to participate in the adoption and application of this Regulation]/[without prejudice to Article 4 of the Protocol, the United Kingdom and Ireland will not participate in the adoption of this Regulation and will not be bound by it or be subject to its application] ⇐.

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↓ 44/2001 recital 21 (adapted)  
⇒ new

(29) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty ~~establishing the European Community~~ ☒ on the Functioning of the European Union ☒, is not taking part in the adoption of this Regulation, and is therefore not bound by it nor subject to its application ⇒, without prejudice of the possibility for Denmark of applying the amendments to Regulation (EC) No 44/2001 pursuant to Article 3 of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters done on 19 October 2005 <sup>19</sup> ⇐.

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↓ 44/2001 recital 22

~~Since the Brussels Convention remains in force in relations between Denmark and the Member States that are bound by this Regulation, both the Convention and the 1971 Protocol continue to apply between Denmark and the Member States bound by this Regulation.~~

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<sup>19</sup> OJ L L 299, 16.11.2005, p. 62.

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↓ 44/2001 recital 23 (adapted)

- (30) The Brussels Convention ~~also~~ continues to apply to the territories of the Member States which fall within the territorial scope of that Convention and which are excluded from this Regulation pursuant to Article ~~299~~ 355 of the Treaty on the Functioning of the European Union .
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↓ 44/2001 recital 24 (adapted)

- (31) Likewise for the sake of consistency, this Regulation should not affect rules governing jurisdiction and the recognition of judgments contained in specific ~~Community~~ instruments of the Union .
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↓ 44/2001 recital 25

- (32) Respect for international commitments entered into by the Member States means that this Regulation should not affect conventions relating to specific matters to which the Member States are parties.
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↓ 44/2001 recital 26

~~The necessary flexibility should be provided for in the basic rules of this Regulation in order to take account of the specific procedural rules of certain Member States. Certain provisions of the Protocol annexed to the Brussels Convention should accordingly be incorporated in this Regulation.~~

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↓ 44/2001 recital 27

~~In order to allow a harmonious transition in certain areas which were the subject of special provisions in the Protocol annexed to the Brussels Convention, this Regulation lays down, for a transitional period, provisions taking into consideration the specific situation in certain Member States.~~

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↓ 44/2001 recital 28 (adapted)

~~No later than five years after entry into force of this Regulation the Commission will present a report on its application and, if need be, submit proposals for adaptations.~~

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↓ 44/2001 recital 29

~~The Commission will have to adjust Annexes I to IV on the rules of national jurisdiction, the courts or competent authorities and redress procedures available on the basis of the amendments forwarded by the Member State concerned; amendments made to Annexes V and VI should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999~~

~~laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>20</sup>~~

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↓ new

(33) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union for the purpose of adjusting Annexes I, II, V, VI and VII.

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↓ 44/2001 (adapted)

~~HAS~~ HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### SCOPE AND DEFINITIONS

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↓ 44/2001  
⇒ new

#### *Article 1*

1. This Regulation 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.

2. This Regulation shall not apply to:

- (a) the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession;
  - (b) bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
  - (c) social security;
  - (d) arbitration ⇒ , save as provided for in Articles 29, paragraph 4 and 33, paragraph 3 ⇐
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↓ new

(e) maintenance obligations arising from a family relationship, parentage, marriage or affinity.

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<sup>20</sup> ~~OJ L 184, 17.7.1999, p. 23.~~

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↓ 44/2001

3. In this Regulation, the term ‘Member State’ shall mean Member States with the exception of Denmark.

*Article ~~322~~*

For the purposes of this Regulation:

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↓ 44/2001 (adapted)

⊗ (a) ⊗ ‘judgment’ means any judgment given by a court or tribunal of a Member 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.

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↓ new

For the purposes of Chapter III, the term 'judgment' includes provisional, including protective measures ordered by a court which by virtue of this Regulation has jurisdiction as to the substance of the matter. It also includes measures ordered without the defendant being summoned to appear and which are intended to be enforced without prior service of the defendant if the defendant has the right to challenge the measure subsequently under the national law of the Member State of origin;

(b) 'provisional, including protective measures' shall include protective orders aimed at obtaining information and evidence;

(c) 'court' shall include any authorities designated by a Member State as having jurisdiction in the matters falling within the scope of this Regulation;

(d) 'court settlement' means a settlement which has been approved by a court or concluded before a court in the course of proceedings;

(e) 'authentic instrument' means a document which has been formally drawn up or registered as an authentic instrument in the Member State of origin and the authenticity of which:

(i) relates to the signature and the content of the instrument, and

(ii) has been established by a public authority or other authority empowered for that purpose.

(f) 'Member State of origin' means the Member State in which, as the case may be, the judgment has been given, the court settlement has been approved or concluded, or the authentic instrument has been established;

(g) 'Member State of enforcement' means the Member State in which the enforcement of the judgment, the court settlement or the authentic instrument is sought;

(h) 'court of origin' means the court which has given the judgment to be recognised and enforced.

## CHAPTER II

### JURISDICTION

#### SECTION 1

##### GENERAL PROVISIONS

###### *Article ~~23~~*

1. Subject to this Regulation, persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State.
2. Persons who are not nationals of the Member State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that State.

###### *Article ~~34~~*

1. Persons domiciled in a Member State may be sued in the courts of another Member State only by virtue of the rules set out in Sections 2 to 7 of this Chapter.
- ~~2. In particular the rules of national jurisdiction set out in Annex I shall not be applicable as against them.~~

- ~~2. Persons not domiciled in any of the Member States may be sued in the courts of a Member State only by virtue of the rules set out in Sections 2 to 8 of this Chapter.~~

###### ~~*Article 4*~~

- ~~1. If the defendant is not domiciled in a Member State, the jurisdiction of the courts of each Member State shall, subject to Articles 22 and 23, be determined by the law of that Member State.~~
- ~~2. As against such a defendant, any person domiciled in a Member State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in Annex I, in the same way as the nationals of that State.~~

## SECTION 2

### SPECIAL JURISDICTION

#### Article 5

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↓ 44/2001 (adapted)

~~A person domiciled in a Member State may, in another Member State, be sued~~ ☒ The following courts shall have jurisdiction ☒ :

1. (a) in matters relating to a contract, ~~in~~ the courts for the place of performance of the obligation in question;
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↓ 44/2001

- (b) for the purpose of this provision and unless otherwise agreed, the place of performance of the obligation in question shall be:

- in the case of the sale of goods, the place in a Member State where, under the contract, the goods were delivered or should have been delivered,
- in the case of the provision of services, the place in a Member State where, under the contract, the services were provided or should have been provided,

- (c) if ~~subparagraph point~~ (b) does not apply then ~~subparagraph point~~ (a) applies;

~~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;~~

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↓ 44/2001 (adapted)

- ~~32.~~ in matters relating to tort, *delict* or *quasi-delict*, ~~in~~ the courts for the place where the harmful event occurred or may occur;
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↓ new

3. as regards *rights in rem* or possession in moveable property, the courts for the place where the property is situated;



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↓ 44/2001 (adapted)

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;
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. 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 Member State in which the trust is domiciled;
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:

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↓ 44/2001

- (a) has been arrested to secure such payment, or
- (b) could have been so arrested, but bail or other security has 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.

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*Article 6*

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↓ 44/2001 (adapted)

A person ~~domiciled in a Member State~~ may also be sued:

1. where he  is domiciled in a Member State and  is one of a number of defendants, in the courts for the place where any one of them is domiciled, provided the claims 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;

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↓ 44/2001

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 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 original claim is pending;

4. in matters relating to a contract, if the action may be combined with an action against the same defendant in matters relating to rights *in rem* in immovable property, in the court of the Member State in which the property is situated.

#### *Article 7*

Where by virtue of this Regulation a court of a Member State has jurisdiction in actions relating to liability from the use or operation of a ship, that court, or any other court substituted for this purpose by the internal law of that Member State, shall also have jurisdiction over claims for limitation of such liability.

### SECTION 3

#### JURISDICTION IN MATTERS RELATING TO INSURANCE

#### *Article 8*

In matters relating to insurance, jurisdiction shall be determined by this Section, without prejudice to ~~Article 4 and~~ point 5 of Article 5.

#### *Article 9*

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↓ 44/2001 (adapted)

1. An insurer ~~domiciled in a Member State~~ may be sued:

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↓ 44/2001

- (a) in the courts of the Member State where he is domiciled, or
- (b) in another Member State, in the case of actions brought by the policyholder, the insured or a beneficiary, in the courts for the place where the plaintiff is domiciled,
- (c) if he is a co-insurer, in the courts of a Member State in which proceedings are brought against the leading insurer.

2. An insurer who is not domiciled in a Member State but has a branch, agency or other establishment in one of the Member States shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that Member State.

#### *Article 10*

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.

### *Article 11*

1. 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.
2. Articles 8, 9 and 10 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.
3. 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.

### *Article 12*

1. Without prejudice to Article 11(3), an insurer may bring proceedings only in the courts of the Member State in which the defendant is domiciled, irrespective of whether he is the policyholder, the insured or a beneficiary.
2. The provisions of this Section 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.

### *Article 13*

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

1. which is entered into after the dispute has arisen, or
2. which allows the policyholder, the insured or a beneficiary to bring proceedings in courts other than those indicated in this Section, or
3. which is concluded between a policyholder and an insurer, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Member 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
4. which is concluded with a policyholder who is not domiciled in a Member State, except in so far as the insurance is compulsory or relates to immovable property in a Member State, or
5. which relates to a contract of insurance in so far as it covers one or more of the risks set out in Article 14.

### *Article 14*

The following are the risks referred to in Article 13(5):

1. any loss of or damage to:
  - (a) seagoing 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;
2. any liability, other than for bodily injury to passengers or loss of or damage to their baggage:
    - (a) arising out of the use or operation of ships, installations or aircraft as referred to in point 1(a) in so far as, in respect of the latter, the law of the Member 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 point 1(b);
  3. any financial loss connected with the use or operation of ships, installations or aircraft as referred to in point 1(a), in particular loss of freight or charter-hire;
  4. any risk or interest connected with any of those referred to in points 1 to 3;

↓ 44/2001 (adapted)

5. notwithstanding points 1 to 4, all 'large risks' as defined in ~~Council Directive 73/239/EEC<sup>21</sup> Directive 2009/138/EC of the European Parliament and of the Council<sup>22</sup>, as amended by Council Directives 88/357/EEC<sup>23</sup> and 90/618/EEC<sup>24</sup>, as they may be amended.~~

↓ 44/2001  
⇒ new

## SECTION 4

### JURISDICTION OVER CONSUMER CONTRACTS

#### *Article 15*

1. In matters relating to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, jurisdiction shall be determined by this Section, without prejudice to ~~Article 4 and~~ point 5 of Article 5, if:

- (a) it is a contract for the sale of goods on instalment credit terms; or
- (b) it is a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods; or

<sup>21</sup> ~~OJ L 228, 16.8.1973, p. 3. Directive as last amended by Directive 2000/26/EC of the European Parliament and of the Council (OJ L 181, 20.7.2000, p. 65).~~

<sup>22</sup> ~~OJ L 335, 17.12.2009, p. 1.~~

<sup>23</sup> ~~OJ L 172, 4.7.1988, p. 1. Directive as last amended by Directive 2000/26/EC.~~

<sup>24</sup> ~~OJ L 330, 29.11.1990, p. 44.~~

(c) in all other cases, the contract has been concluded with a person who pursues commercial or professional activities in the Member State of the consumer's domicile or, by any means, directs such activities to that Member State or to several States including that Member State, and the contract falls within the scope of such activities.

2. Where a consumer enters into a contract with a party who is not domiciled in the Member State but has a branch, agency or other establishment in one of the Member 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.

3. This Section shall not apply to a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation.

#### *Article 16*

1. A consumer may bring proceedings against the other party to a contract either in the courts of the Member State in which that party is domiciled or in the courts for the place where the consumer is domiciled.

2. Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Member State in which the consumer is domiciled.

3. This Article 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.

#### *Article 17*

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

1. which is entered into after the dispute has arisen; or
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 Member State, and which confers jurisdiction on the courts of that Member State, provided that such an agreement is not contrary to the law of that Member State.

## SECTION 5

### JURISDICTION OVER INDIVIDUAL CONTRACTS OF EMPLOYMENT

#### Article 18

1. In matters relating to individual contracts of employment, jurisdiction shall be determined by this Section, without prejudice to ~~Article 4 and~~ point 5 of Article 5 ⇨ and Article 6(1) ⇩.

2. Where an employee enters into an individual contract of employment with an employer who is not domiciled in a Member State but has a branch, agency or other establishment in one of the Member States, the employer shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that Member State.

#### Article 19

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↓ 44/2001 (adapted)

An employer ~~domiciled in a Member State~~ may be sued:

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↓ 44/2001

1. in the courts of the Member State where he is domiciled; or
2. in another Member State:

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↓ 44/2001 (adapted)

- (a) in the courts for the place where  or from where  the employee habitually carries out his work or in the courts for the last place where he did so, or

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↓ 44/2001

- (b) if the employee does not or did not habitually carry out his work in any one country, in the courts for the place where the business which engaged the employee is or was situated.

#### Article 20

1. An employer may bring proceedings only in the courts of the Member State in which the employee is domiciled.

2. The provisions of this Section 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.

## Article 21

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

1. which is entered into after the dispute has arisen; or
2. which allows the employee to bring proceedings in courts other than those indicated in this Section.

## SECTION 6

### EXCLUSIVE JURISDICTION

## Article 22

↓ 44/2001 (adapted)  
⇒ new

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

1. in proceedings which have as their object rights *in rem* in immovable property or tenancies of immovable property, the courts of the Member State in which the property is situated. ☒ However: ☒
  - (a) ~~However~~, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the Member State in which the defendant is domiciled shall also have jurisdiction, provided that the tenant is a natural person and that the landlord and the tenant are domiciled in the same Member State ⇒ , either at the moment of conclusion of the agreement or at the moment of the institution of proceedings ⇐ ;

↓ new

- (b) in agreements concerning tenancies of premises for professional use, parties may agree that a court or the courts of a Member State are to have jurisdiction in accordance with Article 23;

↓ 44/2001

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 of the validity of the decisions of their organs, the courts of the Member State in which the company, legal person or association has its seat. In order to determine that seat, the court shall apply its rules of private international law;
3. in proceedings which have as their object the validity of entries in public registers, the courts of the Member State in which the register is kept;

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↓ 44/2001 (adapted)

4. in proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered,  irrespective of whether the issue is raised by way of an action or as a defence<sup>25</sup>,  the courts of the Member State in which the deposit or registration has been applied for, has taken place or is under the terms of ~~a Community~~  an  instrument  of the Union  or an international convention deemed to have taken place.
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↓ 44/2001

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 Member State shall have exclusive jurisdiction, regardless of domicile, in proceedings concerned with the registration or validity of any European patent granted for that State;

5. in proceedings concerned with the enforcement of judgments, the courts of the Member State in which the judgment has been or is to be enforced.

## SECTION 7

### PROROGATION OF JURISDICTION

#### *Article 23*

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↓ 44/2001 (adapted)

⇒ new

1. If the parties, ~~one or more of whom is domiciled in a Member State~~, have agreed that a court or the courts of a Member 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 jurisdiction ⇒ , unless the agreement is null and void as to its substance under the law of that Member State ⇐ . Such jurisdiction shall be exclusive unless the parties have agreed otherwise. Such an agreement conferring jurisdiction shall be either:
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↓ 44/2001

- (a) in writing or evidenced in writing; or
- (b) in a form which accords with practices which the parties have established between themselves; or

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<sup>25</sup> Note for the translators: the translations, particularly the German and French translation, shall use the wording of the corresponding translations of the decision of the Court of Justice in the matter GAT v. LuK (C-4/03) of 13 July 2006 (summary).



(c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.

2. Any communication by electronic means which provides a durable record of the agreement shall be equivalent to 'writing'.

~~3. Where such an agreement is concluded by parties, none of whom is domiciled in a Member State, the courts of other Member States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.~~

3. The court or courts of a Member State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

4. Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to Articles 13, 17 or 21, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 22.

#### *Article 24*

1. Apart from jurisdiction derived from other provisions of this Regulation, a court of a Member State before which a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 22.

↓ new

2. In matters referred to in Sections 3, 4, and 5 of this Chapter, the document instituting proceedings or the equivalent document must contain information for the defendant on his right to contest the jurisdiction of the court and the consequences of entering an appearance. Before assuming jurisdiction on the basis of this Article, the court shall ensure that such information was provided to the defendant.

### **SECTION 8**

#### **SUBSIDIARY JURISDICTION AND *FORUM NECESSITATIS***

#### *Article 25*

Where no court of a Member State has jurisdiction in accordance with Articles 2 to 24, jurisdiction shall lie with the courts of the Member State where property belonging to the defendant is located, provided that

(a) the value of the property is not disproportionate to the value of the claim; and

(b) the dispute has a sufficient connection with the Member State of the court seised.

#### Article 26

Where no court of a Member State has jurisdiction under this Regulation, the courts of a Member State may, on an exceptional basis, hear the case if the right to a fair trial or the right to access to justice so requires, in particular:

- (a) if proceedings cannot reasonably be brought or conducted or would be impossible in a third State with which the dispute is closely connected; or
- (b) if a judgment given on the claim in a third State would not be entitled to recognition and enforcement in the Member State of the court seised under the law of that State and such recognition and enforcement is necessary to ensure that the rights of the claimant are satisfied;

and the dispute has a sufficient connection with the Member State of the court seised.

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↓ 44/2001  
⇒ new

### SECTION 89

#### EXAMINATION AS TO JURISDICTION AND ADMISSIBILITY

#### Article ~~25~~27

Where a court of a Member State is seised of a claim which is principally concerned with a matter over which ~~the courts of another Member State have exclusive jurisdiction by virtue of Article 22~~ ⇒ it has no jurisdiction under this Regulation ⇐, it shall declare of its own motion that it has no jurisdiction.

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↓ 44/2001 (adapted)

#### Article ~~26~~28

1. Where a defendant ~~domiciled in one Member State~~ is sued in a court of ~~another~~ Member 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 Regulation.~~

~~2. The court~~ shall stay the proceedings so long as it is not shown that 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.

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↓ 44/2001  
⇒ new

~~32.~~ Article 19, paragraphs 1, 2, and 3 of ~~Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters~~<sup>26</sup> Regulation (EC) No 1393/2007 of the European Parliament and of the Council<sup>27</sup> shall apply instead of the provisions of paragraph 2 if the document instituting the proceedings or an equivalent document had to be transmitted from one Member State to another pursuant to this Regulation.

~~43.~~ Where the provisions of Regulation (EC) No ~~1348/2000~~ 1393/2007 are not applicable, Article 15 of the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters shall apply if the document instituting the proceedings or an equivalent document had to be transmitted pursuant to that Convention.

## SECTION 910

### *LIS PENDENS* — RELATED ACTIONS

#### *Article ~~27~~29*

1. ⇒ Without prejudice to Article 32(2), ⇐ ~~W~~where proceedings involving the same cause of action and between the same parties are brought in the courts of different Member States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

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↓ new

2. In cases referred to in paragraph 1, the court first seised shall establish its jurisdiction within six months except where exceptional circumstances make this impossible. Upon request by any other court seised of the dispute, the court first seised shall inform that court of the date on which it was seised and of whether it has established jurisdiction over the dispute or, failing that, of the estimated time for establishing jurisdiction.

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↓ 44/2001

~~23.~~ Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

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<sup>26</sup> [OJL 160, 30.6.2000, p. 37](#)

<sup>27</sup> [OJL 324, 10.12.2007, p. 79](#)

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↓ new

4. Where the agreed or designated seat of an arbitration is in a Member State, the courts of another Member State whose jurisdiction is contested on the basis of an arbitration agreement shall stay proceedings once the courts of the Member State where the seat of the arbitration is located or the arbitral tribunal have been seised of proceedings to determine, as their main object or as an incidental question, the existence, validity or effects of that arbitration agreement.

This paragraph does not prevent the court whose jurisdiction is contested from declining jurisdiction in the situation referred to above if its national law so prescribes.

Where the existence, validity or effects of the arbitration agreement are established, the court seised shall decline jurisdiction.

This paragraph does not apply in disputes concerning matters referred to in Sections 3, 4, and 5 of Chapter II.

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↓ 44/2001

*Article ~~28~~30*

1. Where related actions are pending in the courts of different Member States, any court other than the court first seised may stay its proceedings.

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↓ 44/2001 (adapted)

2. Where these actions are  in the court first seised is  pending at first instance, any other court ~~than the court first seised~~ may also, on the application of one of the parties, decline jurisdiction if the court first seised has jurisdiction over the actions in question ~~and its law permits the consolidation thereof.~~

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↓ 44/2001

3. 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.

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↓ new

*Article 31*

If proceedings as to the substance are pending before a court of a Member State and the courts of another Member State are seised with an application for provisional, including protective measures, the courts concerned shall cooperate in order to ensure proper coordination between the proceedings as to the substance and the provisional relief.

In particular, the court seised with an application for provisional, including protective measures shall seek information from the other court on all relevant circumstances of the case, such as the urgency of the measure sought or any refusal of a similar measure by the court seised as to the substance.

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↓ 44/2001

*Article ~~29~~32*

1. 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.

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↓ new

2. With the exception of agreements governed by Sections 3, 4 and 5 of this Chapter, where an agreement referred to in Article 23 confers exclusive jurisdiction to a court or the courts of a Member State, the courts of other Member States shall have no jurisdiction over the dispute until such time as the court or courts designated in the agreement decline their jurisdiction.

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↓ 44/2001

*Article ~~30~~33*

1. For the purposes of this Section, a court shall be deemed to be seised:

- 1(a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the plaintiff has not subsequently failed to take the steps he was required to take to have service effected on the defendant, or
  - 2(b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service, provided that the plaintiff has not subsequently failed to take the steps he was required to take to have the document lodged with the court.
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↓ new

The authority responsible for service referred to in point (b) shall be the first authority receiving the documents to be served.

2. The courts and authorities responsible for service referred to in paragraph 1 shall note, as applicable, the date and time of lodging of the document instituting proceedings or of receipt of the documents to be served.

3. For the purposes of this Section, an arbitral tribunal is deemed to be seised when a party has nominated an arbitrator or when a party has requested the support of an institution, authority or a court for the tribunal's constitution

### *Article 34*

1. Notwithstanding the rules in Articles 3 to 7, if proceedings in relation to the same cause of action and between the same parties are pending before the courts of a third State at a time when a court in a Member State is seised, that court may stay its proceedings if:

- (a) the court of the third State was seised first in time;
- (b) it may be expected that the court in the third State will, within a reasonable time, render a judgment that will be capable of recognition and, where applicable, enforcement in that Member State; and
- (c) the court is satisfied that it is necessary for the proper administration of justice to do so.

2. During the period of the stay, the party who has seised the court in the Member State shall not lose the benefit of interruption of prescription or limitation periods provided for under the law of that Member State.

3. The court may discharge the stay at any time upon application by either party or of its own motion if one of the following conditions is met:

- (a) the proceedings in the court of the third State are themselves stayed or are discontinued;
- (b) it appears to the court that the proceedings in the court of the third State are unlikely to be concluded within a reasonable time;
- (c) discharge of the stay is required for the proper administration of justice.

4. The court shall dismiss the proceedings upon application by either party or of its own motion if the proceedings in the court of the third State are concluded and have resulted in a judgment enforceable in that State, or capable of recognition and, where applicable, enforcement in the Member State.

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↓ 44/2001

## **SECTION 1011**

### **PROVISIONAL, INCLUDING PROTECTIVE, MEASURES**

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↓ new

### *Article 35*

Where the courts of a Member State have jurisdiction as to the substance of a matter, those courts shall have jurisdiction to issue provisional, including protective measures as may be available under the law of that State.

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↓ 44/2001 (adapted)  
⇒ new

*Article ~~31~~36*

Application may be made to the courts of a Member State for such provisional, including protective, measures as may be available under the law of that State, even if, ~~under this Regulation,~~ the courts of another Member State ⇨ or an arbitral tribunal ⇩ have jurisdiction as to the substance of the matter.

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↓ 44/2001 (adapted)

### CHAPTER III

## RECOGNITION ☒ , ENFORCEABILITY ☒ AND ENFORCEMENT

*Article ~~32~~*

~~For the purposes of this Regulation, 'judgment' means any judgment given by a court or tribunal of a Member 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.~~

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↓ new

*Article 37*

1. This Chapter shall govern the recognition, enforceability and enforcement of judgments falling within the scope of this Regulation
2. Section 1 shall apply to all judgments with the exception of those referred to in paragraph 3.
3. Section 2 shall apply to judgments given in another Member State
  - (a) concerning non-contractual obligations arising out of violations of privacy and rights relating to personality, including defamation, and
  - (b) in proceedings which concern the compensation of harm caused by unlawful business practices to a multitude of injured parties and which are brought by
    - i. a state body,
    - ii. a non-profit making organisation whose main purpose and activity is to represent and defend the interests of groups of natural or legal persons, other than by, on a commercial basis, providing them with legal advice or representing them in court, or

iii. a group of more than twelve claimants.

4. Without prejudice to the competence of the Commission to propose at any time the extension of the rules of Section 1 to judgments falling within the scope of paragraph 3(b) in view of the state of convergence of national laws and of the development of Union law, three years after the entry into force of this Regulation, or earlier in case the Commission proposes further harmonisation, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report reviewing the continuing need to maintain the procedure for recognition and enforcement for judgments given in matters referred to in paragraph 3(b).

## **SECTION 1**

### **JUDGMENTS FOR WHICH NO DECLARATION OF ENFORCEABILITY IS REQUIRED**

#### **SUBSECTION 1**

##### **ABOLITION OF EXEQUATUR**

###### *Article 38*

1. Subject to the provisions of this Chapter, a judgment given in a Member State shall be recognised in the other Member States without any special procedure being required and without any possibility of opposing its recognition.
2. A judgment given in one Member State which is enforceable in that State shall be enforceable in another Member State without the need for a declaration of enforceability.

###### *Article 39*

1. A party who wishes to invoke in another Member State a judgment recognised pursuant to Article 38 (1) shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity.
2. The court before which the recognised judgment is invoked may, where necessary, ask the party invoking it to produce a certificate issued by the court of origin using the form set out in Annex I and to provide a transliteration or a translation of the contents of the form in accordance with Article 69.

The court of origin shall also issue such a certificate at the request of any interested party.

3. The court before which the recognised judgment is invoked may suspend its proceedings, in whole or in part, if the judgment is challenged in the Member State of origin or in the event of an application for a review pursuant to Articles 45 or 46.



## SUBSECTION 2

### ENFORCEMENT

#### *Article 40*

An enforceable judgment shall carry with it by operation of law the power to proceed to any protective measures which exist under the law of the Member State of enforcement.

#### *Article 41*

1. Subject to the provisions of this Chapter, the procedure for the enforcement of judgments given in another Member State shall be governed by the law of the Member State of enforcement. A judgment given in a Member State which is enforceable in the Member State of enforcement shall be enforced there under the same conditions as a judgment given in that Member State.

2. Notwithstanding paragraph 1, the grounds of refusal or suspension of enforcement under the law of the Member State of enforcement shall not apply in so far as they concern situations referred to in Articles 43 to 46.

#### *Article 42*

1. For the purposes of enforcement in another Member State of a judgment other than those referred to in paragraph 2, the applicant shall provide the competent enforcement authorities with:

- (a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and
- (b) the certificate in the form set out in Annex I issued by the court of origin, certifying that the judgment is enforceable and, containing, where appropriate, an extract of the judgment as well as relevant information on the recoverable costs of the proceedings and the calculation of interest.

2. For the purposes of enforcement in another Member State of a judgment ordering a provisional, including protective measure, the applicant shall provide the competent enforcement authorities with

- (a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and
- (b) the certificate in the form set out in Annex I issued by the court of origin, containing a description of the measure and certifying
  - (i) that the court has jurisdiction as to the substance of the matter; and

(ii) where the measure is ordered without the defendant being summoned to appear and is intended to be enforced without prior service of the defendant, that the defendant has the right to challenge the measure under the law of the Member State of origin.

3. The competent authority may, where necessary, request a transliteration or a translation of the content of the form referred to in point (b) of paragraphs 1 and 2 above in accordance with Article 69.

4. The competent authorities may not require the applicant to provide a translation of the judgment. However, a translation may be required if the enforcement of the judgment is challenged and a translation appears necessary.

#### *Article 43*

The competent authority in the Member State of enforcement shall, on application by the defendant, refuse, either wholly or in part, the enforcement of the judgment if

(a) it is irreconcilable with a judgment given in a dispute between the same parties in the Member State of enforcement;

(b) it is irreconcilable with an earlier judgment given in another Member State or in a third State involving the same cause of action and between the same parties provided that the earlier judgment fulfils the conditions necessary for its recognition in the Member State of enforcement.

#### *Article 44*

1. In the event of an application for a review pursuant to Article 45 or Article 46, the competent authority in the Member State of enforcement may, on application by the defendant:

(a) limit the enforcement proceedings to protective measures;

(b) make enforcement conditional on the provision of such security as it shall determine; or

(c) suspend, either wholly or in part, the enforcement of the judgment.

2. The competent authority shall, on application by the defendant, suspend the enforcement of the judgment where the enforceability of that judgment is suspended in the Member State of origin.

3. Where a protective measure was ordered without the defendant having been summoned to appear and enforced without prior service of the defendant, the competent authority may, on application by the defendant, suspend the enforcement if the defendant has challenged the measure in the Member State of origin.

## SUBSECTION 3

### COMMON PROVISIONS

#### *Article 45*

1. A defendant who did not enter an appearance in the Member State of origin shall have the right to apply for a review of the judgment before the competent court of that Member State where:

- (a) he was not served with the document instituting the proceedings or an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence; or
- (b) he was prevented from contesting the claim by reason of force majeure or due to extraordinary circumstances without any fault on his part;

unless he failed to challenge the judgment when it was possible for him to do so.

2. The application shall be submitted using the form set out in Annex II.

3. The application may be submitted directly to the court in the Member State of origin which is competent for the review pursuant to this Article. The application may also be submitted to the competent court of the Member State of enforcement which will without undue delay transfer the application to the competent court in the Member State of origin using the means of communication as notified pursuant to Article 87 point b.

4. The application for a review shall be made promptly, in any event within 45 days from the day the defendant was effectively acquainted with the contents of the judgment and was able to react. Where the defendant applies for a review in the context of enforcement proceedings, the time period shall run at the latest from the date of the first enforcement measure having the effect of making his property non-disposable in whole or in part. The application shall be deemed to be made when it is received by either of the courts referred to in paragraph 3.

5. If the application for a review is manifestly unfounded, the court shall dismiss the application immediately and in any event within 30 days from the receipt of the application. In such case, the judgment shall remain in force.

If the court decides that a review is justified on one of the grounds laid down in paragraph 1, the judgment shall be null and void. However, the party who obtained the judgment before the court of origin shall not lose the benefits of the interruption of prescription or limitation periods acquired in the initial proceedings.

6. This provision shall apply instead of Article 19, paragraph 4 of Regulation (EC) No 1393/2007, if the document instituting the proceedings or an equivalent document had to be transmitted from one Member State to another pursuant to that Regulation.

#### Article 46

1. In cases other than those covered by Article 45, a party shall have the right to apply for a refusal of recognition or enforcement of a judgment where such recognition or enforcement would not be permitted by the fundamental principles underlying the right to a fair trial.
2. The application shall be brought before the court of the Member State of enforcement, listed in Annex III. The local jurisdiction shall be determined by reference to the place of domicile of the party against whom recognition or enforcement is sought or to the place of enforcement.
3. The procedure for making the application shall be governed by the law of the Member State of enforcement.
4. If the application is manifestly unfounded, the court shall dismiss the application immediately and in any event within 30 days from the receipt of the application.
5. If the court decides that the application is justified, recognition or enforcement of the judgment shall be refused.
6. The judgment given in accordance with this Article may be contested only by the appeal referred to in Annex IV.
7. The court seised of an application in accordance with this Article may stay the proceedings if an ordinary appeal has been lodged against the judgment in the Member State of origin or if the time for such an appeal has not yet expired. Where the time for such an appeal has not yet expired, the court may specify the time within which such an appeal is to be lodged.
8. The unsuccessful party shall bear the costs of the proceedings under this Article, including the legal costs of the other party.

↓ 44/2001 (adapted)

### SECTION ~~1~~2

#### ~~RECOGNITION~~ ☒ JUDGMENTS FOR WHICH A DECLARATION OF ENFORCEABILITY IS REQUIRED ON A TRANSITIONAL BASIS ☒

#### Article ~~33~~47

1. A judgment given in a Member State concerning matters referred to in Article 37(3) shall be recognised in the other Member States without any special procedure being required.
2. 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 ☒ Articles 50 to 63 ☒ , apply for a decision that the judgment be recognised.

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↓ 44/2001

3. If the outcome of proceedings in a court of a Member State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

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↓ 44/2001 (adapted)

*Article ~~34~~48*

A judgment shall not be recognised:

1. if such recognition is manifestly contrary to public policy  (*ordre public*)  in the Member State in which recognition is sought;

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↓ 44/2001

2. where it was given in default of appearance, if the defendant was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant failed to commence proceedings to challenge the judgment when it was possible for him to do so;

3. if it is irreconcilable with a judgment given in a dispute between the same parties in the Member State in which recognition is sought;

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↓ 44/2001 (adapted)

4. if it is irreconcilable with an earlier judgment given in another Member State or in a third State involving the same cause of action and between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in the Member State ~~addressed~~  in which recognition is sought .

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↓ 44/2001

⇒ new

*Article 35*

~~1. Moreover, a judgment shall not be recognised if it conflicts with Sections 3, 4 or 6 of Chapter II, or in a case provided for in Article 72.~~

~~2. 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 Member State of origin based its jurisdiction.~~

~~3. Subject to the paragraph 1, the jurisdiction of the court of the Member State of origin may not be reviewed. The test of public policy referred to in point 1 of Article 34 may not be applied to the rules relating to jurisdiction.~~

*Article ~~37~~49*

~~1. A court of a Member State in which recognition is sought of a judgment given in another Member State may ⇨ shall ⇩ stay the proceedings if an ordinary appeal against the judgment has been lodged ⇨ the enforceability of the decision is suspended in the Member State of origin by reason of an appeal ⇩.~~

~~2. A court of a Member 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 of origin, by reason of an appeal.~~

↓ 44/2001 (adapted)

**SECTION 2**

**ENFORCEMENT**

*Article ~~38~~50*

~~1. A judgment given in a Member State and enforceable in that State shall be enforced ⇨ enforceable ⇩ in another ⇨ the other ⇩ Member State ⇨ States ⇩ when, on the application of any interested party, it has been declared enforceable there ⇨ in accordance with the procedure provided for in Articles 51 to 63 ⇩.~~

↓ 44/2001

~~2. 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.~~

*Article ~~39~~51*

↓ 44/2001 (adapted)

⇨ new

1. The application ⇨ for a declaration of enforceability ⇩ shall be submitted to the court or competent authority indicated in the list in Annex II ⇨ of the Member State of enforcement notified by that Member State to the Commission in accordance with Article 87 point d ⇩.

↓ 44/2001

2. The local jurisdiction shall be determined by reference to the place of domicile of the party against whom enforcement is sought, or to the place of enforcement.

Article ~~40~~52

↓ 44/2001 (adapted)

1. The procedure for making the application  for a declaration of enforceability  shall be governed by the law of the Member State ~~in which~~  of  enforcement is ~~sought~~.
2.  The application shall be accompanied by the following documents: 
  - (a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity
  - (b) the certificate issued by the court or competent authority of the Member State of origin using the form set out in Annex VI, without prejudice to Article 53.

↓ 44/2001

~~2. 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 Member State in which enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative *ad litem*.~~

~~3. The documents referred to in Article 53 shall be attached to the application.~~

Article ~~55~~53

1. If the certificate referred to in Article ~~54~~ 52(2)(b) is not produced, the court or competent authority may specify a time for its production or accept an equivalent document or, if it considers that it has sufficient information before it, dispense with its production.

↓ 44/2001 (adapted)

2.  In the situation referred to in paragraph 1,  ~~if~~ the court or competent authority 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 Member States.~~

Article ~~41~~54

The judgment shall be declared enforceable  without any review under Article 48  immediately on completion of the formalities in Article ~~53~~52 ~~without any review under Articles 34 and 35~~. The party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

Article ~~42~~55

1. The decision on the application for a declaration of enforceability shall forthwith be brought to the notice of the applicant in accordance with the procedure laid down by the law of the Member State ~~in which~~  of  enforcement is ~~sought~~.

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↓ 44/2001

2. The declaration of enforceability shall be served on the party against whom enforcement is sought, accompanied by the judgment, if not already served on that party.

*Article ~~43~~56*

1. The decision on the application for a declaration of enforceability may be appealed against by either party.

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↓ 44/2001  
⇒ new

2. The appeal is to be lodged with the court ~~in the list in Annex III~~ ⇒ of the Member State of enforcement notified by that Member State to the Commission in accordance with Article 87 point e ⇐ .

3. The appeal shall be dealt with in accordance with the rules governing procedure in contradictory matters.

4. If the party against whom enforcement is sought fails to appear before the appellate court in proceedings concerning an appeal brought by the applicant, Article ~~26(2) to (4)~~ 28 shall apply even where the party against whom enforcement is sought is not domiciled in any of the Member States.

5. An appeal against the declaration of enforceability is to be lodged within ~~one month~~ ⇒ 30 days ⇐ of service thereof. If the party against whom enforcement is sought is domiciled in a Member State other than that in which the declaration of enforceability was given, the time for appealing shall be ~~two months~~ ⇒ 45 days ⇐ 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 ~~44~~57*

The judgment given on the appeal may be contested only by the ~~appeal referred to in Annex IV~~ ⇒ procedure notified by the Member State concerned to the Commission in accordance with Article 87 point f ⇐ .

*Article ~~45~~58*

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↓ 44/2001 (adapted)

1. The court with which an appeal is lodged under Article ~~43~~ 56 or Article ~~44~~ 57 shall refuse or revoke a declaration of enforceability only on one of the grounds specified in Articles ~~34 and 35~~ 48. ~~It shall give its decision without delay.~~

~~2. Under no circumstances may the foreign judgment be reviewed as to its substance.~~



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↓ new

2. Subject to Article 56 (4), the court seized of an appeal under Article 56 shall give its decision within 90 days from the date it was seized, except where exceptional circumstances make this impossible.

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↓ 44/2001 (adapted)

⊗ 3. The court seized of an appeal under Article 57 shall give its decision without delay. ⊗

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↓ 44/2001  
⇒ new

#### *Article ~~46~~59*

~~1.~~ The court with which an appeal is lodged under Article ~~43~~ 56 or Article ~~44~~ 57 ~~may~~ ⇒ shall ⇐, on the application of the party against whom enforcement is sought, stay the proceedings if ~~an ordinary appeal has been lodged against the judgment~~ ⇒ the enforceability of the decision is suspended ⇐ in the Member State of origin or if the time for such ⇒ by reason of ⇐ 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.~~

~~2. Where the judgment was given in Ireland or the United Kingdom, any form of appeal available in the Member State of origin shall be treated as an ordinary appeal for the purposes of paragraph 1.~~

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

#### *Article 60*

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↓ 44/2001 (adapted)

1. When a judgment must be recognised in accordance with this Regulation ⊗ Section ⊗, nothing shall prevent the applicant from availing himself of provisional, including protective, measures in accordance with the law of the Member State ~~requested~~ ⊗ of enforcement ⊗ without a declaration of enforceability under Article ~~41~~ 54 being required.

2. The declaration of enforceability shall carry with it ⊗ by operation of law ⊗ the power to proceed to any protective measures.

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↓ 44/2001 (adapted)

3. During the time specified for an appeal pursuant to Article ~~43(5)~~ 56(5) against the declaration of enforceability and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures against the property of the party against whom enforcement is sought.

*Article ~~48~~61*

1. Where a ~~foreign~~ judgment has been given in respect of several matters and the declaration of enforceability cannot be given for all of them, the court or competent authority shall give it for one or more of them.

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↓ 44/2001

2. An applicant may request a declaration of enforceability limited to parts of a judgment.

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↓ 44/2001 (adapted)  
⇒ new

*Article ~~50~~62*

An applicant who, in the Member State of origin has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in ~~the procedure provided for in this Section~~ ⇒ any proceedings for a declaration of enforceability ⇐ , to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the Member State ~~addressed~~ ⊗ of enforcement ⊗ .

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↓ 44/2001 (adapted)

*Article ~~52~~63*

In proceedings for the issue of a declaration of enforceability, no charge, duty or fee calculated by reference to the value of the matter at issue may be levied in the Member State ~~in which~~ ⊗ of ⊗ enforcement ~~is sought~~.

**SECTION 3**

**COMMON PROVISIONS**

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↓ 44/2001

*Article 64*

Under no circumstances may a judgment given in a Member State be reviewed as to its substance in the Member State in which recognition, enforceability or enforcement is sought.

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↓ new

*Article 65*

The party seeking the recognition, enforceability or enforcement of a judgment given in another Member State shall not be required to have a postal address or an authorised representative in the Member State of enforcement.

*Article 66*

If a judgment contains a measure or an order which is not known in the Member State of enforcement, the competent authority in that Member State shall, to the extent possible, adapt the measure or order to one known under its own law which has equivalent effects attached to it and pursues similar aims and interests.

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↓ 44/2001 (adapted)  
⇒ new

*Article ~~49~~67*

A ~~foreign~~ judgment  given in a Member State  which orders a ~~periodic~~ payment by way of a penalty shall be enforceable in the Member State of enforcement  in accordance with Sections 1 or 2, as the case may be.  ⇒ The competent court or authority in the Member State of enforcement shall determine  ~~only if~~ the amount of the payment ⇒ if that amount  has  not  been finally determined by the courts of the Member State of origin.

*Article ~~51~~68*

No security, bond or deposit, however described, shall be required of a party who in one Member State applies for enforcement of a judgment given in another Member State on the ground that he is a foreign national or that he is not domiciled or resident in the  Member  State ~~in which~~  of  enforcement ~~is sought~~.

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↓ new

*Article 69*

1. When a transliteration or translation is required under this Regulation, such transliteration or translation shall be into the official language of the Member State concerned or, where there are several official languages in that Member State, into the official language or one of the official languages of court proceedings of the place where a recognised judgment is invoked or an application is made, in accordance with the law of that Member State.

2. For the purposes of the forms referred to in Articles 39 and 42, transliterations or translations may also be into any other official language or languages of the institutions of the Union that the Member State concerned has indicated it can accept.

3. Any translation made under this Regulation shall be done by a person qualified to do translations in one of the Member States.

↓ 44/2001 (adapted)

#### ~~Article 53~~

~~1. A party seeking recognition or applying for a declaration of enforceability shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity.~~

~~2. A party applying for a declaration of enforceability shall also produce the certificate referred to in Article 54, without prejudice to Article 55.~~

#### ~~Article 54~~

~~The court or competent authority of a Member State where a judgment was given shall issue, at the request of any interested party, a certificate using the standard form in Annex V to this Regulation.~~~~Article 55~~

~~1. If the certificate referred to in Article 54 is not produced, the court or competent authority may specify a time for its production or accept an equivalent document or, if it considers that it has sufficient information before it, dispense with its production.~~

~~2. If the court or competent authority 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 Member States.~~

#### ~~Article 56~~

~~No legalisation or other similar formality shall be required in respect of the documents referred to in Article 53 or Article 55(2), or in respect of a document appointing a representative *ad litem*.~~

## CHAPTER IV

### AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS

#### ~~Article 57~~70

↓ 44/2001 (adapted)

⇒ new

~~1. A document which has been formally drawn up or registered as a~~An authentic instrument ~~and~~ ~~☒~~ ~~which~~ ~~☒~~ ~~is enforceable in one Member State shall,~~ ~~in another Member State,~~ ~~be declared enforceable there, on application made in accordance with the procedures provided~~

~~for in Articles 38, et seq~~ ⇒ enforced in the other Member States in the same way as judgments in accordance with Sections 1 or 2 of Chapter III respectively ⇐ . ~~The court with which an appeal is lodged under Article 43 or Article 44 shall refuse or revoke a declaration of enforceability only if enforcement of the instrument is manifestly contrary to public policy in the Member State addressed.~~

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↓ 44/2001  
⇒ new

~~2. Arrangements relating to maintenance obligations concluded with administrative authorities or authenticated by them shall also be regarded as authentic instruments within the meaning of paragraph 1.~~

32. The instrument produced must satisfy the conditions necessary to establish its authenticity in the Member State of origin. ⇒ The competent authority of the Member State of origin shall issue, at the request of any interested party, the certificate in the form set out in Annex V and VII, as the case may be, containing a summary of the enforceable obligation contained in the instrument. ⇐

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↓ 44/2001 (adapted)  
⇒ new

43. ☒ The provisions of ☒ Section 1 or 2 of Chapter III ☒ , respectively, ☒ shall apply as appropriate. ~~The competent authority of a Member State where an authentic instrument was drawn up or registered shall issue, at the request of any interested party, a certificate using the standard form in Annex VI to this Regulation.~~

#### *Article ~~58~~71*

A ☒ court ☒ settlement which ~~has been approved by a court in the course of proceedings and~~ is enforceable in the Member State of origin shall be ~~enforceable in the State addressed~~ ⇒ enforced in the other Member States ⇐ under the same conditions as authentic instruments. The ☒ competent ☒ court or ~~competent~~ authority of a ☒ the ☒ Member State ☒ of origin ☒ ~~where a court settlement was approved~~ shall issue, at the request of any interested party, a ☒ the ☒ certificate ~~using~~ ☒ in ☒ the ~~standard~~ form ☒ set out ☒ in Annex V ~~to this Regulation~~ ⇒ , containing a summary of the agreement between the parties ⇐ .

## CHAPTER V

### GENERAL PROVISIONS

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↓ new

#### *Article 72*

No legalisation or other similar formality shall be required in the context of this Regulation.

*Article ~~59~~73*

1. In order to determine whether a party is domiciled in the Member State whose courts are seised of a matter, the court shall apply its internal law.
2. If a party is not domiciled in the Member State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Member State, the court shall apply the law of that Member State

*Article ~~60~~74*

1. For the purposes of this Regulation, a company or other legal person or association of natural or legal persons is domiciled at the place where it has its:
  - (a) statutory seat, or
  - (b) central administration, or
  - (c) principal place of business.
2. For the purposes of the United Kingdom and Ireland ‘statutory seat’ means the registered office or, where there is no such office anywhere, the place of incorporation or, where there is no such place anywhere, the place under the law of which the formation took place.
3. In order to determine whether a trust is domiciled in the Member State whose courts are seised of the matter, the court shall apply its rules of private international law.

*Article ~~61~~75*

Without prejudice to any more favourable provisions of national laws, persons domiciled in a Member State who are being prosecuted in the criminal courts of another Member State of which they are not nationals for an offence which was not intentionally committed may be defended by persons qualified to do so, even if they do not appear in person. However, the court seised of the matter may order appearance in person; 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 recognised or enforced in the other Member States.

*~~Article 62~~*

~~In Sweden, in summary proceedings concerning orders to pay (*betalningsföreläggande*) and assistance (*handräkning*), the expression ‘court’ includes the ‘Swedish enforcement service’ (*kronofogdemyndighet*).~~

~~Article 63~~

~~1. A person domiciled in the territory of the Grand Duchy of Luxembourg and sued in the court of another Member State pursuant to Article 5(1) may refuse to submit to the jurisdiction of that court if the final place of delivery of the goods or provision of the services is in Luxembourg.~~

~~2. Where, under paragraph 1, the final place of delivery of the goods or provision of the services is in Luxembourg, any agreement conferring jurisdiction must, in order to be valid, be accepted in writing or evidenced in writing within the meaning of Article 23(1)(a).~~

~~3. The provisions of this Article shall not apply to contracts for the provision of financial services.~~

~~4. The provisions of this Article shall apply for a period of six years from entry into force of this Regulation.~~

~~Article 64~~

~~1. In proceedings involving a dispute between the master and a member of the crew of a seagoing ship registered in Greece or in Portugal, concerning remuneration or other conditions of service, a court in a Member State shall establish whether the diplomatic or consular officer responsible for the ship has been notified of the dispute. It may act as soon as that officer has been notified.~~

~~2. The provisions of this Article shall apply for a period of six years from entry into force of this Regulation.~~

~~Article 65~~ 76

1. The jurisdiction specified in Article 6(2) and Article 11 in actions on a warranty of  or  guarantee or in any other third party proceedings may not be resorted to Germany, Austria and Hungary ⇒ in the Member States referred to in Annex VIII only insofar as permitted under national law ⇐ . Any person domiciled in another Member State may be sued in the courts; ⇒ of those Member States pursuant to the rules referred to in Annex VIII on third party notice, without prejudice to Articles 22 and 23. ⇐

~~(a) of Germany, pursuant to Articles 68 and 72 to 74 of the Code of Civil Procedure (Zivilprozessordnung) concerning third party notices;~~

~~(b) of Austria, pursuant to Article 21 of the Code of Civil Procedure (Zivilprozessordnung) concerning third party notices;~~

~~(e) of Hungary, pursuant to Articles 58 to 60 of the Code of Civil Procedure (Polgári perrendtartás) concerning third party notices.~~

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↓ new

The court having jurisdiction pursuant to this Article shall decide on the admissibility of the third party notice.

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↓ 2003 Accession Act, Art. 20 and Annex II, p. 715  
⇒ new

~~¶2.~~ Judgments given in other Member States by virtue of Article 6(2) or Article 11 shall be recognised and enforced in ~~Germany, Austria and Hungary~~ ⇒ the Member States referred to in Annex VIII ⇐ in accordance with Chapter III. Any effects which judgments given in these States may have on third parties by application of the provisions in paragraph 1 shall also be recognised in the other Member States.

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↓ 44/2001 (adapted)

## CHAPTER VI

### TRANSITIONAL PROVISIONS

#### *Article ~~66~~77*

1. This Regulation shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments as of the date of entry into application thereof.

⊗ 2. Legal proceedings instituted and documents formally drawn up or registered as authentic instruments prior to the date of entry into application of this Regulation shall be governed by Chapter III, Sections 2 and 3. ⊗

~~2. However, if the proceedings in the Member State of origin were instituted before the entry into force of this Regulation, judgments given after that date shall be recognised and enforced in accordance with Chapter III,~~

~~(a) if the proceedings in the Member State of origin were instituted after the entry into force of the Brussels or the Lugano Convention both in the Member State of origin and in the Member State addressed;~~

~~(b) in all other cases, if jurisdiction was founded upon rules which accorded with those provided for either in Chapter II or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.~~



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↓ 44/2001

## CHAPTER VII

### RELATIONS WITH OTHER INSTRUMENTS

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↓ 44/2001 (adapted)

#### *Article ~~67~~78*

This Regulation shall not prejudice the application of provisions governing jurisdiction and the recognition and enforcement of judgments in specific matters which are contained in ~~Community~~ instruments ~~☒~~ of the Union ~~☒~~ or in national legislation harmonised pursuant to such instruments.

#### *Article ~~68~~79*

1. This Regulation shall, as between the Member States, supersede the Brussels Convention, except as regards the territories of the Member States which fall within the territorial scope of that Convention and which are excluded from this Regulation pursuant to Article ~~299~~ ~~☒~~ 355 ~~☒~~ of the Treaty.

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↓ 44/2001

2. In so far as this Regulation replaces the provisions of the Brussels Convention between Member States, any reference to the Convention shall be understood as a reference to this Regulation.

#### *Article ~~69~~80*

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↓ 44/2001 (adapted)  
⇒ new

Subject to Articles ~~66(2)~~81 and ~~70~~82, this Regulation shall, as between Member States, supersede the ~~following~~ conventions ~~and treaty concluded between two or more of them~~ ~~☒~~ that cover the same matters as those to which this Regulation applies. In particular, the conventions mentioned in Annex IX shall be superseded. ~~☒~~

- ~~– 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,~~
- ~~– 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,~~

- ~~the Convention between France and Italy on the Enforcement of Judgments in Civil and Commercial Matters, signed at Rome on 3 June 1930,~~
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28 (adapted)

- ~~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,~~

- ~~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,~~
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↓ 44/2001 (adapted)

- ~~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 Belgium and Austria on the Reciprocal Recognition and Enforcement of Judgments and Authentic Instruments relating to Maintenance Obligations, signed at Vienna on 25 October 1957,~~

- ~~the Convention between Germany and 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,~~

- ~~the Convention between the Netherlands and Italy on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Rome on 17 April 1959,~~

- ~~the Convention between Germany and Austria on the Reciprocal Recognition and Enforcement of Judgments, Settlements and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 6 June 1959,~~

- ~~the Convention between Belgium and Austria on the Reciprocal Recognition and Enforcement of Judgments, Arbitral Awards and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 16 June 1959,~~
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28 (adapted)

- ~~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,~~

- ~~the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970,~~

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↓ 44/2001 (adapted)

- ~~the Convention between Greece and 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,~~
  - ~~the Convention between Belgium and Italy on the Recognition and Enforcement of Judgments and other Enforceable Instruments in Civil and Commercial Matters, signed at Rome on 6 April 1962,~~
  - ~~the Convention between the Netherlands and 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,~~
  - ~~the Convention between the Netherlands and Austria on the Reciprocal Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at The Hague on 6 February 1963,~~
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28 (adapted)

- ~~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,~~
- 

↓ 44/2001 (adapted)

- ~~the Convention between France and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 15 July 1966,~~
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28 (adapted)

- ~~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,~~
- 

↓ 44/2001 (adapted)

- ~~the Convention between Spain and France on the Recognition and Enforcement of Judgment Arbitration Awards in Civil and Commercial Matters, signed at Paris on 28 May 1969,~~
- ~~the Convention between Luxembourg and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Luxembourg on 29 July 1971,~~

- ~~the Convention between Italy and Austria on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, of Judicial Settlements and of Authentic Instruments, signed at Rome on 16 November 1971,~~
  - ~~the Convention between Spain and Italy regarding Legal Aid and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Madrid on 22 May 1973,~~
  - ~~the Convention between Finland, Iceland, Norway, Sweden and Denmark on the Recognition and Enforcement of Judgments in Civil Matters, signed at Copenhagen on 11 October 1977,~~
  - ~~the Convention between Austria and Sweden on the Recognition and Enforcement of Judgments in Civil Matters, signed at Stockholm on 16 September 1982,~~
  - ~~the Convention between Spain and the Federal Republic of Germany on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 14 November 1983,~~
  - ~~the Convention between Austria and Spain on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 17 February 1984,~~
  - ~~the Convention between Finland and Austria on the Recognition and Enforcement of Judgments in Civil Matters, signed at Vienna on 17 November 1986,~~
  - ~~the Treaty between Belgium, the Netherlands and Luxembourg in Jurisdiction, Bankruptcy, and the Validity and Enforcement of Judgments, Arbitration Awards and Authentic Instruments, signed at Brussels on 24 November 1961, in so far as it is in force,~~
- 

↓ 2003 Accession Act, Art. 20  
 and Annex II, p. 715 (adapted)

- ~~the Convention between the Czechoslovak Republic and Portugal on the Recognition and Enforcement of Court Decisions, signed at Lisbon on 23 November 1927, still in force between the Czech Republic and Portugal,~~
- ~~the Convention between the Federative People's Republic of Yugoslavia and the Republic of Austria on Mutual Judicial Cooperation, signed at Vienna on 16 December 1954,~~
- ~~the Convention between the Polish People's Republic and the Hungarian People's Republic on the Legal Assistance in Civil, Family and Criminal Matters, signed at Budapest on 6 March 1959,~~
- ~~the Convention between the Federative People's Republic of Yugoslavia and the Kingdom of Greece on the Mutual Recognition and Enforcement of Judgments, signed at Athens on 18 June 1959,~~

- ~~the Convention between the Polish People's Republic and the Federative People's Republic of Yugoslavia on the Legal Assistance in Civil and Criminal Matters, signed at Warsaw on 6 February 1960, now in force between Poland and Slovenia,~~
- ~~the Agreement between the Federative People's Republic of Yugoslavia and the Republic of Austria on the Mutual Recognition and Enforcement of Arbitral Awards and Arbitral Settlements in Commercial Matters, signed at Belgrade on 18 March 1960,~~
- ~~the Agreement between the Federative People's Republic of Yugoslavia and the Republic of Austria on the Mutual Recognition and Enforcement of Decisions in Alimony Matters, signed at Vienna on 10 October 1961,~~
- ~~the Convention between Poland and Austria on Mutual Relations in Civil Matters and on Documents, signed at Vienna on 11 December 1963,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Socialist Federative Republic of Yugoslavia on Settlement of Legal Relations in Civil, Family and Criminal Matters, signed at Belgrade on 20 January 1964, still in force between the Czech Republic, Slovakia and Slovenia,~~
- ~~the Convention between Poland and France on Applicable Law, Jurisdiction and the Enforcement of Judgments in the Field of Personal and Family Law, concluded in Warsaw on 5 April 1967,~~
- ~~the Convention between the Governments of Yugoslavia and France on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Paris on 18 May 1971,~~
- ~~the Convention between the Federative Socialist Republic of Yugoslavia and the Kingdom of Belgium on the Recognition and Enforcement of Court Decisions in Alimony Matters, signed at Belgrade on 12 December 1973,~~
- ~~the Convention between Hungary and Greece on Legal Assistance in Civil and Criminal Matters, signed at Budapest on 8 October 1979,~~
- ~~the Convention between Poland and Greece on Legal Assistance in Civil and Criminal Matters, signed at Athens on 24 October 1979,~~
- ~~the Convention between Hungary and France on Legal Assistance in Civil and Family Law, on the Recognition and Enforcement of Decisions and on Legal Assistance in Criminal Matters and on Extradition, signed at Budapest on 31 July 1980,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Hellenic Republic on Legal Aid in Civil and Criminal Matters, signed at Athens on 22 October 1980, still in force between the Czech Republic, Slovakia and Greece,~~
- ~~the Convention between the Republic of Cyprus and the Hungarian People's Republic on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 30 November 1981,~~

- ~~the Treaty between the Czechoslovak Socialist Republic and the Republic of Cyprus on Legal Aid in Civil and Criminal Matters, signed at Nicosia on 23 April 1982, still in force between the Czech Republic, Slovakia and Cyprus,~~
- ~~the Agreement between the Republic of Cyprus and the Republic of Greece on Legal Cooperation in Matters of Civil, Family, Commercial and Criminal Law, signed at Nicosia on 5 March 1984,~~
- ~~the Treaty between the Government of the Czechoslovak Socialist Republic and the Government of the Republic of France on Legal Aid and the Recognition and Enforcement of Judgments in Civil, Family and Commercial Matters, signed at Paris on 10 May 1984, still in force between the Czech Republic, Slovakia and France,~~
- ~~the Agreement between the Republic of Cyprus and the Socialist Federal Republic of Yugoslavia on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 19 September 1984, now in force between Cyprus and Slovenia,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Italian Republic on Legal Aid in Civil and Criminal Matters, signed at Prague on 6 December 1985, still in force between the Czech Republic, Slovakia and Italy,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Kingdom of Spain on Legal Aid, Recognition and Enforcement of Court Decisions in Civil Matters, signed at Madrid on 4 May 1987, still in force between the Czech Republic, Slovakia and Spain,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Polish People's Republic on Legal Aid and Settlement of Legal Relations in Civil, Family, Labour and Criminal Matters, signed at Warsaw on 21 December 1987, still in force between the Czech Republic, Slovakia and Poland,~~
- ~~the Treaty between the Czechoslovak Socialist Republic and the Hungarian People's Republic on Legal Aid and Settlement of Legal Relations in Civil, Family and Criminal Matters, signed at Bratislava on 28 March 1989, still in force between the Czech Republic, Slovakia and Hungary,~~
- ~~the Convention between Poland and Italy on Judicial Assistance and the Recognition and Enforcement of Judgments in Civil Matters, signed at Warsaw on 28 April 1989,~~
- ~~the Treaty between the Czech Republic and the Slovak Republic on Legal Aid provided by Judicial Bodies and on Settlements of Certain Legal Relations in Civil and Criminal Matters, signed at Prague on 29 October 1992,~~
- ~~the Agreement between the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania on Legal Assistance and Legal Relationships, signed at Tallinn on 11 November 1992,~~
- ~~the Agreement between the Republic of Poland and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters, signed in Warsaw on 26 January 1993,~~

- ~~the Agreement between the Republic of Latvia and the Republic of Poland on Legal Assistance and Legal Relationships in Civil, Family, Labour and Criminal Matters, signed at Riga on 23 February 1994,~~
- ~~the Agreement between the Republic of Cyprus and the Republic of Poland on Legal Cooperation in Civil and Criminal Matters, signed at Nicosia on 14 November 1996, and~~
- ~~the Agreement between Estonia and Poland on Granting Legal Assistance and Legal Relations on Civil, Labour and Criminal Matters, signed at Tallinn on 27 November 1998,~~

↓ 1791/2006 Art. 1(1) and Annex  
 pt 11(A) (adapted)

- ~~the Convention between Bulgaria and Belgium on certain Judicial Matters, signed at Sofia on 2 July 1930,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Federative People's Republic of Yugoslavia on Mutual Legal Assistance, signed at Sofia on 23 March 1956, still in force between Bulgaria and Slovenia,~~
- ~~the Treaty between the People's Republic of Romania and the People's Republic of Hungary on Legal Assistance in Civil, Family and Criminal Matters, signed at Bucharest on 7 October 1958,~~
- ~~the Treaty between the People's Republic of Romania and the Czechoslovak Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Prague on 25 October 1958, still in force between Romania and Slovakia,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Romanian People's Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Sofia on 3 December 1958,~~
- ~~the Treaty between the People's Republic of Romania and the Federal People's Republic of Yugoslavia on Legal Assistance, signed at Belgrade on 18 October 1960 and its Protocol, still in force between Romania and Slovenia,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Polish People's Republic on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed at Warsaw on 4 December 1961,~~
- ~~the Convention between the Socialist Republic of Romania and the Republic of Austria on Legal Assistance in Civil and Family law and the Validity and Service of Documents and its annexed Protocol, signed at Vienna on 17 November 1965,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Hungarian People's Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Sofia on 16 May 1966,~~

- ~~the Convention between the Socialist Republic of Romania and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters and its Protocol, signed at Bucharest on 19 October 1972,~~
- ~~the Convention between the Socialist Republic of Romania and the Italian Republic on Judicial Assistance in Civil and Criminal Matters, signed at Bucharest on 11 November 1972,~~
- ~~the Convention between the Socialist Republic of Romania and the French Republic on Legal Assistance in Civil and Commercial Matters, signed at Paris on 5 November 1974,~~
- ~~the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Legal Assistance in Civil and Commercial Matters, signed at Bucharest on 30 October 1975,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Athens on 10 April 1976,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Czechoslovak Socialist Republic on Legal Assistance and Settlement of Relations in Civil, Family and Criminal Matters, signed at Sofia on 25 November 1976,~~
- ~~the Convention between the Socialist Republic of Romania and the United Kingdom of Great Britain and Northern Ireland on Legal Assistance in Civil and Commercial Matters, signed at London on 15 June 1978,~~
- ~~the Additional Protocol to the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Legal Assistance Civil and Commercial Matters, signed at Bucharest on 30 October 1979,~~
- ~~the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Recognition and Enforcement of Decisions in Alimony Obligations, signed at Bucharest on 30 October 1979,~~
- ~~the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Recognition and Enforcement of Divorce Decisions, signed at Bucharest on 6 November 1980,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Republic of Cyprus on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 29 April 1983,~~
- ~~the Agreement between the Government of the People's Republic of Bulgaria and the Government of the French Republic on Mutual Legal Assistance in Civil Matters, signed at Sofia on 18 January 1989,~~
- ~~the Agreement between the People's Republic of Bulgaria and the Italian Republic on Legal Assistance and Enforcement of Decisions in Civil Matters, signed at Rome on 18 May 1990,~~



- ~~the Agreement between the Republic of Bulgaria and the Kingdom of Spain on Mutual Legal Assistance in Civil Matters, signed at Sofia on 23 May 1993,~~
  - ~~the Treaty between Romania and the Czech Republic on Judicial Assistance in Civil Matters, signed at Bucharest on 11 July 1994,~~
  - ~~the Convention between Romania and the Kingdom of Spain on Jurisdiction, Recognition and Enforcement of Decisions in Civil and Commercial Matters, signed at Bucharest on 17 November 1997,~~
  - ~~the Convention between Romania and the Kingdom of Spain — complementary to the Hague Convention relating to civil procedure law (Hague, 1 March 1954), signed at Bucharest on 17 November 1997,~~
  - ~~the Treaty between Romania and the Republic of Poland on Legal Assistance and Legal Relations in Civil Cases, signed at Bucharest on 15 May 1999.~~
- 

↓ 44/2001 (adapted)

*Article ~~70~~81*

1. The ~~Treaty and the C~~onventions referred to in Article ~~69~~ 80 shall continue to have effect in relation to matters to which this Regulation does not apply.
  2. 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 Regulation~~ ☒ 1 March 2002 ☒ .
- 

↓ 44/2001

*Article ~~71~~82*

1. This Regulation shall not affect any conventions to which the Member States are parties and which in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.
2. With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner:
  - (a) this Regulation shall not prevent a court of a Member 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 Member State which is not a party to that convention. The court hearing the action shall, in any event, apply Article ~~26~~ 28 of this Regulation;
  - (b) judgments given in a Member State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognised and enforced in the other Member States in accordance with this Regulation.

Where a convention on a particular matter to which both the Member State of origin and the Member State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Regulation which concern the procedure for recognition and enforcement of judgments may be applied.

*Article ~~72~~83*

This Regulation shall not affect agreements by which Member States undertook, prior to the entry into force of this Regulation pursuant to Article 59 of the Brussels Convention, not to recognise judgments given, in particular in other Contracting States to that Convention, against defendants domiciled or habitually resident in a third country where, in cases provided for in Article 4 of that Convention, the judgment could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3 of that Convention.

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↓ new

*Article 84*

This Regulation shall not affect the application of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, signed on 30 October 2007 in Lugano.

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↓ 44/2001

## CHAPTER VIII

### FINAL PROVISIONS

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↓ new

*Article 85*

This Regulation shall not affect the right of workers and employers, or their respective organisations, to engage in collective action to protect their interests, in particular the right or freedom to strike or to take other actions, in accordance with Union law and national law and practices.

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↓ 44/2001 (adapted)

*Article ~~73~~*

~~No later than five years after the entry into force of this Regulation, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a~~

~~report on the application of this Regulation. The report shall be accompanied, if need be, by proposals for adaptations to this Regulation.~~

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↓ new

#### *Article 86*

The Member States shall provide within the framework of the European Judicial Network in civil and commercial matters established by Decision 2001/470/EC<sup>28</sup>, as amended by Decision 568/2009 with a view to making it available to the public, a description of national rules and procedures concerning enforcement, including authorities competent for enforcement, information on any limitations on enforcement, in particular debtor protection rules and limitation or prescription periods.

Member States shall keep this information permanently updated.

#### *Article 87*

By \_\_\_\_\_ [1 year before the entry into force of the Regulation], the Member States shall communicate to the Commission

(a) the courts competent for the review in the Member State of origin pursuant to Article 45(3);

(b) the means of communication accepted in the Member State of origin for receiving applications for the review pursuant to Article 45;

(c) the courts competent in the Member State of enforcement to which the application for a review may be submitted in accordance with Article 45(3);

(d) the courts to which the application for a declaration of enforceability has to be submitted pursuant to Article 51 (1);

(e) the courts with which an appeal against the decision on the application for a declaration of enforceability is to be lodged pursuant to Article 56 (2);

(f) the courts with which a further appeal is to be lodged pursuant to Article 57;

(g) the languages accepted for translations of the forms as referred to in Article 69.

The Commission shall make the information publicly available through any appropriate means, in particular through the European Judicial Network in civil and commercial matters established by Decision 2001/470.

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<sup>28</sup> OJ L 174, 27.06.2001, p. 25

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↓ 44/2001 (adapted)

*Article ~~74~~88*

1. The Member States shall notify the Commission of the texts amending the lists set out in Annexes ~~I to IV~~ ☒ III, IV and IX, as well as of any withdrawals or technical amendments of the provisions listed in Annex VIII ☒ . The Commission shall adapt the Annexes concerned accordingly.

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↓ 1103/2008 Art. 1 and Annex pt 1

~~2. The updating or technical adjustments of the forms, specimens of which appear in Annexes V and VI, shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 75(2).~~

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↓ new

2. The Commission may adopt, by means of delegated acts in accordance with Articles 90 to 92 amendments to Annexes I, II, V, VI and VII.

*Article 89*

1. The powers to adopt the delegated acts referred to in Article 88 (2) shall be conferred on the Commission for an indeterminate period of time.
2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
3. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 90 and 91.

*Article 90*

1. The delegation of power referred to in Article 88 (2) may be revoked at any time by the European Parliament or by the Council.
2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.
3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

#### Article 91

1. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by two months.
2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

↓ 1103/2008 Art. 1 and Annex pt  
2

#### Article 75

~~1. The Commission shall be assisted by a committee.~~

~~2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

↓ new

#### Article 92

1. This Regulation shall repeal Regulation (EC) No 44/2001. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex X.

2. Except with respect to judgments referred to in Article 37(3), this Regulation shall replace Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

↓ 44/2001 (adapted)

#### Article ~~76~~93

This Regulation shall enter into force on ~~1 March 2002~~ ☒ the twentieth day following that of its publication in the *Official Journal of the European Union* ☒ .

This Regulation ~~is~~  shall be  binding in its entirety and directly applicable in ~~the~~  all  Member States ~~in accordance with the Treaty establishing the European Community.~~

It shall apply from [24 months after entry into force], with the exception of Article 87, which shall apply from [12 months after entry into force].

Done at [...]

*For the European Parliament  
The President*

*For the Council  
The President*

**ANNEX I**

**CERTIFICATE CONCERNING A JUDGMENT IN CIVIL AND COMMERCIAL MATTERS FOR WHICH NO DECLARATION OF ENFORCEABILITY IS REQUIRED**

**Articles 42 (1) (b) and (2) (b) of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)**

**1. COURT OF ORIGIN**

**1.1. Name:**

**1.2. Address:**

*1.2.1. Street and number/PO box:*

*1.2.2. Place and postal code:*

*1.2.3. Member State*

AT  BE  BU  CY  CZ  DE  EE  EL  ES  FI  FR  HU  IE  IT  LT  LU   
LV  MT  NL  PL  PT  RO  SE  SI  SK  UK

**1.3. Telephone/Fax/E-mail:**

**2. CLAIMANT(S)<sup>29</sup>**

**2.1. Surname and given name(s)/name of company or organisation:**

**2.2. Address:**

2.2.1. *Street and number/PO box:*

2.2.2. *Place and postal code:*

2.2.3. *Country:*

**3. DEFENDANT(S)<sup>30</sup>**

**3.1. Surname and given name(s)/name of company or organisation:**

**3.2. Address:**

3.2.1. *Street and number/PO box:*

3.2.2. *Place and postal code:*

3.2.3. *Country:*

**4. THE JUDGMENT**

**4.1. Date and reference number of the judgment**

**4.2. Enforceability of the judgment**

Is the judgment enforceable in the Member State of origin

Yes

Yes, but only against the following defendants (please specify):

**4.3. Nature of the judgment**

Judgment on monetary claim (go to 4.4.1)

Declaratory judgment (go to 4.4.2)

Provisional, including protective measure (go to 4.4.3)

Other (go to 4.4.4)

---

<sup>29</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.

<sup>30</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.



#### 4.4. Terms of the judgment and interest

##### 4.4.1. Judgment for a monetary claim

4.4.1.1. The court has ordered ... (surname and given name(s)/name of company or organisation) to pay to ... (surname and given name(s)/name of company or organisation)

##### 4.4.1.2. Currency

Euro (EUR)  Bulgarian lev (BGN)  Czech koruna (CZK)  Hungarian forint (HUF)  Lithuanian litas (LTL)  Latvian lats (LVL)  Polish zloty (PLN)  Pound Sterling (GBP)  Romanian leu (RON)  Swedish krona (SEK)  Other (please specify ISO code):

##### 4.4.1.3. Principal amount:

–  Amount to be paid in one sum:

–  Amount not to be paid in one sum (please specify):

##### 4.4.1.4. Interest, where applicable

Interest awarded in the judgment:

– Amount: \_\_\_\_\_, or

– rate ... %. The interest should run from ... (dd/mm/yyyy) to ... (dd/mm/yyyy).

Interest running as of the date of the judgment:

– rate ... %.

##### 4.4.2. Declaratory judgment

Short description of the facts of the case and the ruling by the court<sup>31</sup>

##### 4.4.3. Provisional, including protective measure

##### 4.4.3.1. Brief description of the measure ordered

4.4.3.2. The measure has been awarded by a court having jurisdiction as to the substance of the dispute

yes, on the basis of Article \_\_\_ of Regulation \_\_\_ of the European Parliament and of the Council amending Council Regulation (EC) No 44/2001 of 22 December 2000

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<sup>31</sup> Add an additional sheet if necessary.

4.4.3.3. Was the protective measure ordered without the defendant having been summoned to appear?

No

Yes, and the defendant has the right to challenge the measure under national law

4.4.4. *Other type of judgment*

Short description of the facts of the case and the ruling by the court<sup>32</sup>

#### 4.5. Costs

4.5.1.1. Currency

Euro (EUR)  Bulgarian lev (BGN)  Czech koruna (CZK)  Hungarian forint (HUF)  Lithuanian litas (LTL)  Latvian lats (LVL)  Polish zloty (PLN)  Pound Sterling (GBP)  Romanian leu (RON)  Swedish krona (SEK)  Other (please specify ISO code):

4.5.1.2. Does the defendant have to bear the costs of proceedings, fully or partially?

Yes. Please specify which costs and indicate the amount (claimed or incurred).

Court fees: ...

Lawyers' fees: ....

Cost of service of documents: ...

Other: ...

No

**If additional pages have been attached, state the number of pages: ...**

**Done at: ...**

**Signature and/or stamp of the court of origin:**

<sup>32</sup> Add an additional sheet if necessary.

↓ new

## **ANNEX II**

### **APPLICATION FOR A REVIEW**

**Article 45(2) of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)**

#### **1. APPLICANT**

**1.1. Surname and given name(s)/name of company or organisation:**

**1.2. Address:**

*1.2.1. Street and number/PO box:*

*1.2.2. Place and postal code:*

*1.2.3. Country:*

#### **2. COURT OF ORIGIN**

**2.1. Name:**

**2.2. Address:**

*2.2.1. Street and number/PO box:*

*2.2.2. Place and postal code:*

*2.2.3. Member State*

AT  BE  BU  CY  CZ  DE  EE  EL  ES  FI  FR  HU  IE  IT  LT  LU   
LV  MT  NL  PL  PT  RO  SE  SI  SK  UK

**2.3. Telephone/Fax/E-mail:**

**3. THE JUDGMENT**

**3.1. Date and reference number of the judgment:**

**4. CLAIMANT(S) IN THE PROCEEDINGS IN THE COURT OF ORIGIN<sup>33</sup>**

**4.1. Surname and given name(s)/name of company or organisation:**

**4.2. Address:**

4.2.1. *Street and number/PO box:*

4.2.2. *Place and postal code:*

4.2.3. *Country:*

**5. DEFENDANT(S) IN THE PROCEEDINGS IN THE COURT OF ORIGIN OTHER THAN THE APPLICANT<sup>34</sup>**

**5.1. Surname and given name(s)/name of company or organisation:**

**5.2. Address:**

5.2.1. *Street and number/PO box:*

5.2.2. *Place and postal code:*

5.2.3. *Country:*

**6. REQUEST FOR THE REVIEW OF THE JUDGMENT**

**6.1. I hereby lodge application for the review of the judgment because it was given in default of my appearance and (please tick the appropriate box)**

I was not served with the document instituting the proceedings or an equivalent document; or

I was served with any of the above documents but not in sufficient time and in such a way to enable me to prepare for my defence (please specify); or

I was prevented from contesting the claim by reason of *force majeure* or extraordinary circumstances without any fault on my part (please specify):

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<sup>33</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.

<sup>34</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.

**6.2. I did not have the possibility to challenge the judgment**

Yes

Done at: ...

Date (dd/mm/yy):

Name of the applicant or authorised representative

**Signature:**

**ANNEX III**

The courts with which applications referred to in Article ~~43 (2)~~ 46 may be lodged are the following:

- in Belgium,
  - ~~(a) as regards appeal by the defendant, the ‘tribunal de première instance’ or ‘rechtbank van eerste aanleg’ or ‘erstinstanzliche Gericht’,~~
  - ~~(b) as regards appeal by the applicant, the ‘Cour d’appel’ or ‘hof van beroep’,~~
- in Bulgaria, the ‘Апелативен съд — София’,
- in the Czech Republic, the court of appeal through the district court,
- in Germany, the ‘Oberlandesgericht’,
- in Estonia, the ‘ringkonnakohtus’,
- in Greece the ‘Εφετείο’,
- in Spain, ~~the ‘Juzgado de Primera Instancia’ which issued the contested decision, with the appeal to be solved by~~ the ‘Audiencia Provincial’,
- in France,
  - ~~(a) the ‘cour d’appel’ on decisions allowing the application,~~
  - ~~(b) the presiding judge of the ‘tribunal de grande instance’, on decisions rejecting the application,~~
- in Ireland, the High Court,
- ~~– in Iceland, the ‘heradsdomur’,~~
- in Italy, the ‘corte d'appello’,
- in Cyprus, the ‘Επαρχιακό Δικαστήριο’ ~~or in the case of a maintenance judgment the ‘Οικογενειακό Δικαστήριο’,~~
- in Latvia, the ‘Apgabaltiesa’ via the ‘rajona (pilsētas) tiesa’,
- in Lithuania, the ‘Lietuvos apeliacinis teismas’,
- in Luxembourg, the ‘Cour supérieure de justice’ sitting as a court of civil appeal,
- in Hungary, ~~the local court situated at the seat of the county court (in Budapest, the Central District Court of Buda); the appeal is adjudicated by~~ the county court (in Budapest, the Capital Court),

- in Malta, the ‘Qorti ta’ l-Appell’ in accordance with the procedure laid down for appeals in the *Kodiċi ta’ Organizzazzjoni u Proċedura Ċivili – Kap.12* ~~or in the case of a maintenance judgment by ‘ċitazzjoni’ before the ‘Prim’ Awla tal-Qorti ivili jew il-Qorti tal-Maġistrati ta’ Ghawdex fil-ġurisdizzjoni superjuri tagħha’~~,
- in the Netherlands, the ‘rechtbank’,
- in Austria, the ‘Landesgericht’ ~~via the ‘Bezirksgericht’~~,
- in Poland, the ‘sąd apelacyjny’ ~~via the ‘sąd okręgowy’~~,
- in Portugal, the ‘Tribunal da Relação’ ~~is the competent court. The appeals are launched, in accordance with the national law in force, by way of a request addressed to the court which issued the contested decision,~~
- in Romania, the ‘Curte de Apel’,
- in Slovenia, the ‘okrožno sodišče’,
- in Slovakia, the court of appeal ~~through the district court whose decision is being appealed,~~
- in Finland, the ‘hovioikeus/hovrätt’,
- in Sweden, the ‘Svea hovrätt’,
- in the United Kingdom:
  - (a) in England and Wales, the *High Court of Justice*, ~~or in the case of a maintenance judgment the *Magistrates’ Court*,~~
  - (b) in Scotland, the *Court of Session*, ~~or in the case of a maintenance judgment the *Sheriff Court*,~~
  - (c) in Northern Ireland, the *High Court of Justice*, ~~or in the case of a maintenance judgment the *Magistrates’ Court*,~~
  - (d) in Gibraltar, the *Supreme Court of Gibraltar*, ~~or in the case of a maintenance judgment, the *Magistrates’ Court*.~~

**ANNEX IV**

The appeals which may be lodged pursuant to Article ~~44~~ 46(6) are the following:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and the Netherlands, an appeal in cassation,
- in Bulgaria, ‘обжалване пред Върховния касационен съд’,
- in the Czech Republic, a ‘*dovolání*’ and a ‘*žaloba pro zmatečnost*’,
- in Germany, a ‘*Rechtsbeschwerde*’,
- in Estonia, a ‘*kassatsioonikaebus*’,
- in Ireland, an appeal on a point of law to the Supreme Court,
- ~~– in Iceland, an appeal to the ‘*Hæstiréttur*’,~~
- in Cyprus, an appeal to the Supreme Court,
- in Latvia, an appeal to the ‘Augstākās tiesas Senāts’ via the ‘Apgabaltiesa’,
- in Lithuania, an appeal to the ‘Lietuvos Aukščiausiasis Teismas’,
- in Hungary, ‘*felülvizsgálati kérelem*’,
- ~~– in Malta, no further appeal lies to any other court; in the case of a maintenance judgment the ‘*Qorti ta’ l-Appell*’ in accordance with the procedure laid down for appeal in the ‘*kodiċi ta’ Organizzazzjoni u Procedura Ċivili – Kap. 12*’~~
- in Austria, a ‘Revisionsrekurs’,
- in Poland, ‘*skarga kasacyjna*’,
- in Portugal, an appeal on a point of law,
- in Romania, a ‘*contestatie in anulare*’ or a ‘*revizuire*’,
- in Slovenia, an appeal to the ‘Vrhovno sodišče Republike Slovenije’,
- in Slovakia, the ‘*dovolanie*’,
- in Finland, an appeal to the ‘*korkein oikeus/högsta domstolen*’,
- in Sweden, an appeal to the ‘*Högsta domstolen*’,
- in the United Kingdom, a single further appeal on a point of law.



**ANNEX V**

**CERTIFICATE CONCERNING AN AUTHENTIC INSTRUMENT OR COURT SETTLEMENT IN CIVIL AND COMMERCIAL MATTERS FOR WHICH NO DECLARATION OF ENFORCEABILITY IS REQUIRED**

**Articles 70 and 71 of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**

**1. COURT OR COMPETENT AUTHORITY ISSUING THE CERTIFICATE**

**1.1. Name:**

**1.2. Address:**

*1.2.1. Street and number/PO box:*

*1.2.2. Place and postal code:*

*1.2.3. Member State*

AT  BE  BU  CY  CZ  DE  EE  EL  ES  FI  FR  HU  IE  IT  LT  LU   
LV  MT  NL  PL  PT  RO  SE  SI  SK  UK

**1.3. Telephone/Fax/E-mail:**

**2. AUTHENTIC INSTRUMENT /COURT SETTLEMENT**

**2.1. Date and reference number:**

**2.2. The parties to the authentic instrument/court settlement<sup>35</sup>:**

*2.2.1. Name(s) of creditor(s) (surname, first name/name of the company or organisation):*

*2.2.2. Name(s) of debtor(s)(surname, first name/name of the company or organisation):*

*2.2.3. Name of other party(ies), if any (surname, first name/name of the company or organisation):*

**2.3. Text of the enforceable obligation contained in the instrument/court settlement<sup>36</sup>:**

**I, the undersigned, hereby certify that the authentic instrument/court settlement is enforceable in the Member State of origin against the parties set out in point 2.2.2**

<sup>35</sup> Delete as appropriate

<sup>36</sup> Add additional pages if necessary

**If additional pages have been attached, state the number of pages: ...**

**Done at: ...**

**Signature and/or stamp of the court of origin or competent authority:**

**ANNEX VI**

**CERTIFICATE CONCERNING A JUDGMENT IN CIVIL AND COMMERCIAL MATTERS FOR WHICH A DECLARATION OF ENFORCEABILITY IS REQUIRED**

**Article 52 (2) (b) of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)**

**1. COURT OF ORIGIN**

**1.1. Name:**

**1.2. Address:**

*1.2.1. Street and number/PO box:*

*1.2.2. Place and postal code:*

*1.2.3. Member State*

AT  BE  BU  CY  CZ  DE  EE  EL  ES  FI  FR  HU  IE  IT  LT  LU   
LV  MT  NL  PL  PT  RO  SE  SI  SK  UK

**1.3. Telephone/Fax/E-mail:**

**2. CLAIMANT(S)<sup>37</sup>**

**2.1. Surname and given name(s)/name of company or organisation:**

**2.2. Address:**

2.2.1. *Street and number/PO box:*

2.2.2. *Place and postal code:*

2.2.3. *Country:*

**3. DEFENDANT(S)<sup>38</sup>**

**3.1. Surname and given name(s)/name of company or organisation:**

**3.2. Address:**

3.2.1. *Street and number/PO box:*

3.2.2. *Place and postal code:*

3.2.3. *Country:*

**4. THE JUDGMENT**

**4.1. Date and reference number of the judgment**

**4.2. Enforceability of the judgment**

Is the judgment enforceable in the Member State of origin

Yes

Yes, but only against the following defendants (please specify):

**4.3. Nature of the judgment**

Judgment on monetary claim (go to 4.4.1)

Declaratory judgment (go to 4.4.2)

Provisional, including protective measure (go to 4.4.3)

Other (go to 4.4.4)

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<sup>37</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.

<sup>38</sup> If the judgment concerns more than one claimant or one defendant, attach an additional sheet.

#### 4.4. Terms of the judgment and interest

##### 4.4.1. Judgment for a monetary claim

4.4.1.1. The court has ordered ... (surname and given name(s)/name of company or organisation) to pay to ... (surname and given name(s)/name of company or organisation)

##### 4.4.1.2. Currency

Euro (EUR)  Bulgarian lev (BGN)  Czech koruna (CZK)  Hungarian forint (HUF)  Lithuanian litas (LTL)  Latvian lats (LVL)  Polish zloty (PLN)  Pound Sterling (GBP)  Romanian leu (RON)  Swedish krona (SEK)  Other (please specify ISO code):

##### 4.4.1.3. Principal amount:

–  Amount to be paid in one sum:

–  Amount not to be paid in one sum (please specify):

##### 4.4.1.4. Interest, where applicable

Interest awarded in the judgment:

– Amount: \_\_\_\_\_, or

– rate ... %. The interest should run from ... (dd/mm/yyyy) to ... (dd/mm/yyyy).

Interest running as of the date of the judgment:

– rate ... %.

##### 4.4.2. Declaratory judgment

Short description of the facts of the case and the ruling by the court<sup>39</sup>

##### 4.4.3. Provisional, including protective measure

##### 4.4.3.1. Brief description of the measure ordered

4.4.3.2. The measure has been awarded by a court having jurisdiction as to the substance of the dispute

yes, on the basis of Article \_\_\_ of Regulation \_\_\_ of the European Parliament and of the Council amending Council Regulation (EC) No 44/2001 of 22 December 2000

4.4.3.3. Was the protective measure ordered without the defendant having been summoned to appear?

No

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<sup>39</sup> Add an additional sheet if necessary.

Yes, and the defendant has the right to challenge the measure under national law

#### 4.4.4. *Other type of judgment*

Short description of the facts of the case and the ruling by the court<sup>40</sup>

### 4.5. **Costs**

#### 4.5.1.1. Currency

Euro (EUR)  Bulgarian lev (BGN)  Czech koruna (CZK)  Hungarian forint (HUF)  Lithuanian litas (LTL)  Latvian lats (LVL)  Polish zloty (PLN)  Pound Sterling (GBP)  Romanian leu (RON)  Swedish krona (SEK)  Other (please specify ISO code):

#### 4.5.1.2. Does the defendant have to bear the costs of proceedings, fully or partially?

Yes. Please specify which costs and indicate the amount (claimed or incurred).

Court fees: ...

Lawyers' fees: ....

Cost of service of documents: ...

Other: ...

No

**If additional pages have been attached, state the number of pages: ...**

**Done at: ...**

**Signature and/or stamp of the court of origin:**

---

<sup>40</sup> Add an additional sheet if necessary.

## **ANNEX VII**

### **CERTIFICATE CONCERNING AN AUTHENTIC INSTRUMENT OR COURT SETTLEMENT IN CIVIL AND COMMERCIAL MATTERS FOR WHICH A DECLARATION OF ENFORCEABILITY IS REQUIRED**

**Articles 70 and 71 of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**

#### **1. COURT OR COMPETENT AUTHORITY ISSUING THE CERTIFICATE**

**1.1. Name:**

**1.2. Address:**

*1.2.1. Street and number/PO box:*

*1.2.2. Place and postal code:*

*1.2.3. Member State*

AT  BE  BU  CY  CZ  DE  EE  EL  ES  FI  FR  HU  IE  IT  LT  LU   
LV  MT  NL  PL  PT  RO  SE  SI  SK  UK

**1.3. Telephone/Fax/E-mail:**

#### **2. AUTHENTIC INSTRUMENT /COURT SETTLEMENT**

**2.1. Date and reference number:**

**2.2. The parties to the authentic instrument/court settlement<sup>41</sup>:**

*2.2.1. Name(s) of creditor(s) (surname, first name/name of the company or organisation):*

*2.2.2. Name(s) of debtor(s)(surname, first name/name of the company or organisation):*

*2.2.3. Name of other party(ies), if any (surname, first name/name of the company or organisation):*

**2.3. Text of the enforceable obligation contained in the instrument/court settlement<sup>42</sup>:**

**I, the undersigned, hereby certify that the authentic instrument/court settlement is enforceable in the Member State of origin against the parties set out in point 2.2.2**

·

<sup>41</sup> Delete as appropriate

<sup>42</sup> Add additional pages if necessary

**If additional pages have been attached, state the number of pages: ...**

**Done at: ...**

**Signature and/or stamp of the court of origin or competent authority:**



## **ANNEX VIII**

### **The Member States and the rules referred to in Article 76 of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**

The Member States and the rules referred to in Article 76 are the following:

Germany: Articles 68, 72, 73 and 74 of the code of civil procedure (Zivilprozessordnung) concerning third-party notices,—

Estonia: Article 214(3) and (4) and Article 216 of the Code of Civil Procedure (tsiviilkohtumenetluse seadustik) concerning third-party notices,—

Latvia: Articles 78, 79, 80 and 81 of the Civil Procedure Law (Civilprocesa likums) concerning third-party notices,—

Lithuania: Article 47 of the Code of Civil Procedure (Civilinio proceso kodeksas),—

Hungary: Articles 58 to 60 of the Code of Civil Procedure (Polgári perrendtartás) concerning third-party notices,—

Austria: Article 21 of the code of civil procedure (Zivilprozessordnung) concerning third-party notices,—

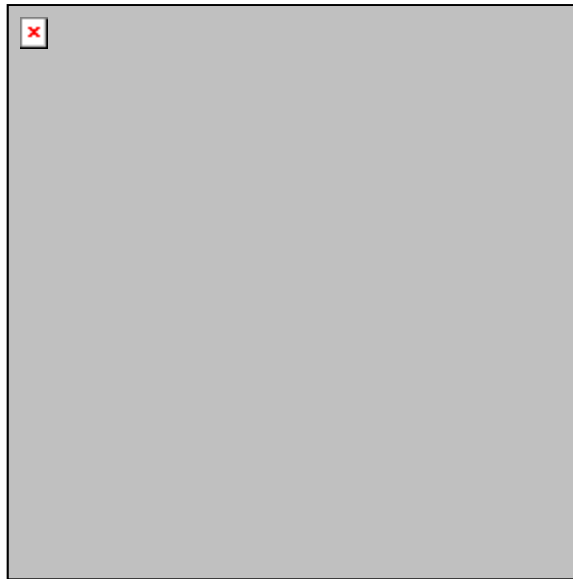
Poland: Articles 84 and 85 of the Code of Civil Procedure (Kodeks postępowania cywilnego) concerning third-party notices (przypozwanie),—

Slovenia: Article 204 of the Civil Procedure Act (Zakon o pravdnem postopku) concerning third-party notices.

~~ANNEX V~~



## ANNEX VI



## ANNEX IX

**⊗ The conventions referred to in Article 80 of Regulation \_\_\_ of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) ⊗**

⊗ The conventions superseded pursuant to Article 80 are the following: ⊗

- 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,
- 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,
- the Convention between France and Italy on the Enforcement of Judgments in Civil and Commercial Matters, signed at Rome on 3 June 1930,

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28

- 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,
- 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,

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↓ 44/2001

- 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 Belgium and Austria on the Reciprocal Recognition and Enforcement of Judgments and Authentic Instruments relating to Maintenance Obligations, signed at Vienna on 25 October 1957,
- the Convention between Germany and 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,
- the Convention between the Netherlands and Italy on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Rome on 17 April 1959,
- the Convention between Germany and Austria on the Reciprocal Recognition and Enforcement of Judgments, Settlements and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 6 June 1959,
- the Convention between Belgium and Austria on the Reciprocal Recognition and Enforcement of Judgments, Arbitral Awards and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 16 June 1959,

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↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28

- 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,
- the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Vienna on 14 July 1961, with amending Protocol signed at London on 6 March 1970,

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↓ 44/2001

- the Convention between Greece and 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,
- the Convention between Belgium and Italy on the Recognition and Enforcement of Judgments and other Enforceable Instruments in Civil and Commercial Matters, signed at Rome on 6 April 1962,
- the Convention between the Netherlands and 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,

- the Convention between the Netherlands and Austria on the Reciprocal Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at The Hague on 6 February 1963,
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28

- 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,
- 

↓ 44/2001

- the Convention between France and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 15 July 1966,
- 

↓ Corrigendum, OJ L 307,  
24.11.2001, p. 28

- 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,
- 

↓ 44/2001

- the Convention between Spain and France on the Recognition and Enforcement of Judgment Arbitration Awards in Civil and Commercial Matters, signed at Paris on 28 May 1969,
- the Convention between Luxembourg and Austria on the Recognition and Enforcement of Judgments and Authentic Instruments in Civil and Commercial Matters, signed at Luxembourg on 29 July 1971,
- the Convention between Italy and Austria on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, of Judicial Settlements and of Authentic Instruments, signed at Rome on 16 November 1971,
- the Convention between Spain and Italy regarding Legal Aid and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Madrid on 22 May 1973,
- the Convention between Finland, Iceland, Norway, Sweden and Denmark on the Recognition and Enforcement of Judgments in Civil Matters, signed at Copenhagen on 11 October 1977,
- the Convention between Austria and Sweden on the Recognition and Enforcement of Judgments in Civil Matters, signed at Stockholm on 16 September 1982,

- the Convention between Spain and the Federal Republic of Germany on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Bonn on 14 November 1983,
- the Convention between Austria and Spain on the Recognition and Enforcement of Judgments, Settlements and Enforceable Authentic Instruments in Civil and Commercial Matters, signed at Vienna on 17 February 1984,
- the Convention between Finland and Austria on the Recognition and Enforcement of Judgments in Civil Matters, signed at Vienna on 17 November 1986,
- the Treaty between Belgium, the Netherlands and Luxembourg in Jurisdiction, Bankruptcy, and the Validity and Enforcement of Judgments, Arbitration Awards and Authentic Instruments, signed at Brussels on 24 November 1961, in so far as it is in force,

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<p>↓ 2003 Accession Act, Art. 20 and Annex II, p. 715</p>
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- the Convention between the Czechoslovak Republic and Portugal on the Recognition and Enforcement of Court Decisions, signed at Lisbon on 23 November 1927, still in force between the Czech Republic and Portugal,
- the Convention between the Federative People's Republic of Yugoslavia and the Republic of Austria on Mutual Judicial Cooperation, signed at Vienna on 16 December 1954,
- the Convention between the Polish People's Republic and the Hungarian People's Republic on the Legal Assistance in Civil, Family and Criminal Matters, signed at Budapest on 6 March 1959,
- the Convention between the Federative People's Republic of Yugoslavia and the Kingdom of Greece on the Mutual Recognition and Enforcement of Judgments, signed at Athens on 18 June 1959,
- the Convention between the Polish People's Republic and the Federative People's Republic of Yugoslavia on the Legal Assistance in Civil and Criminal Matters, signed at Warsaw on 6 February 1960, now in force between Poland and Slovenia,
- the Agreement between the Federative People's Republic of Yugoslavia and the Republic of Austria on the Mutual Recognition and Enforcement of Arbitral Awards and Arbitral Settlements in Commercial Matters, signed at Belgrade on 18 March 1960,
- the Agreement between the Federative People's Republic of Yugoslavia and the Republic of Austria on the Mutual Recognition and Enforcement of Decisions in Alimony Matters, signed at Vienna on 10 October 1961,
- the Convention between Poland and Austria on Mutual Relations in Civil Matters and on Documents, signed at Vienna on 11 December 1963,

- the Treaty between the Czechoslovak Socialist Republic and the Socialist Federative Republic of Yugoslavia on Settlement of Legal Relations in Civil, Family and Criminal Matters, signed at Belgrade on 20 January 1964, still in force between the Czech Republic, Slovakia and Slovenia,
- the Convention between Poland and France on Applicable Law, Jurisdiction and the Enforcement of Judgments in the Field of Personal and Family Law, concluded in Warsaw on 5 April 1967,
- the Convention between the Governments of Yugoslavia and France on the Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Paris on 18 May 1971,
- the Convention between the Federative Socialist Republic of Yugoslavia and the Kingdom of Belgium on the Recognition and Enforcement of Court Decisions in Alimony Matters, signed at Belgrade on 12 December 1973,
- the Convention between Hungary and Greece on Legal Assistance in Civil and Criminal Matters, signed at Budapest on 8 October 1979,
- the Convention between Poland and Greece on Legal Assistance in Civil and Criminal Matters, signed at Athens on 24 October 1979,
- the Convention between Hungary and France on Legal Assistance in Civil and Family Law, on the Recognition and Enforcement of Decisions and on Legal Assistance in Criminal Matters and on Extradition, signed at Budapest on 31 July 1980,
- the Treaty between the Czechoslovak Socialist Republic and the Hellenic Republic on Legal Aid in Civil and Criminal Matters, signed at Athens on 22 October 1980, still in force between the Czech Republic, Slovakia and Greece,
- the Convention between the Republic of Cyprus and the Hungarian People's Republic on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 30 November 1981,
- the Treaty between the Czechoslovak Socialist Republic and the Republic of Cyprus on Legal Aid in Civil and Criminal Matters, signed at Nicosia on 23 April 1982, still in force between the Czech Republic, Slovakia and Cyprus,
- the Agreement between the Republic of Cyprus and the Republic of Greece on Legal Cooperation in Matters of Civil, Family, Commercial and Criminal Law, signed at Nicosia on 5 March 1984,
- the Treaty between the Government of the Czechoslovak Socialist Republic and the Government of the Republic of France on Legal Aid and the Recognition and Enforcement of Judgments in Civil, Family and Commercial Matters, signed at Paris on 10 May 1984, still in force between the Czech Republic, Slovakia and France,
- the Agreement between the Republic of Cyprus and the Socialist Federal Republic of Yugoslavia on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 19 September 1984, now in force between Cyprus and Slovenia,

- the Treaty between the Czechoslovak Socialist Republic and the Italian Republic on Legal Aid in Civil and Criminal Matters, signed at Prague on 6 December 1985, still in force between the Czech Republic, Slovakia and Italy,
- the Treaty between the Czechoslovak Socialist Republic and the Kingdom of Spain on Legal Aid, Recognition and Enforcement of Court Decisions in Civil Matters, signed at Madrid on 4 May 1987, still in force between the Czech Republic, Slovakia and Spain,
- the Treaty between the Czechoslovak Socialist Republic and the Polish People's Republic on Legal Aid and Settlement of Legal Relations in Civil, Family, Labour and Criminal Matters, signed at Warsaw on 21 December 1987, still in force between the Czech Republic, Slovakia and Poland,
- the Treaty between the Czechoslovak Socialist Republic and the Hungarian People's Republic on Legal Aid and Settlement of Legal Relations in Civil, Family and Criminal Matters, signed at Bratislava on 28 March 1989, still in force between the Czech Republic, Slovakia and Hungary,
- the Convention between Poland and Italy on Judicial Assistance and the Recognition and Enforcement of Judgments in Civil Matters, signed at Warsaw on 28 April 1989,
- the Treaty between the Czech Republic and the Slovak Republic on Legal Aid provided by Judicial Bodies and on Settlements of Certain Legal Relations in Civil and Criminal Matters, signed at Prague on 29 October 1992,
- the Agreement between the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania on Legal Assistance and Legal Relationships, signed at Tallinn on 11 November 1992,
- the Agreement between the Republic of Poland and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family, Labour and Criminal Matters, signed in Warsaw on 26 January 1993,
- the Agreement between the Republic of Latvia and the Republic of Poland on Legal Assistance and Legal Relationships in Civil, Family, Labour and Criminal Matters, signed at Riga on 23 February 1994,
- the Agreement between the Republic of Cyprus and the Republic of Poland on Legal Cooperation in Civil and Criminal Matters, signed at Nicosia on 14 November 1996, and
- the Agreement between Estonia and Poland on Granting Legal Assistance and Legal Relations on Civil, Labour and Criminal Matters, signed at Tallinn on 27 November 1998,

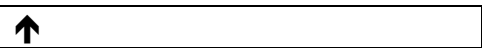
↓ 1791/2006 Art. 1(1) and Annex pt 11(A)
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- the Convention between Bulgaria and Belgium on certain Judicial Matters, signed at Sofia on 2 July 1930,



- the Agreement between the People's Republic of Bulgaria and the Federative People's Republic of Yugoslavia on Mutual Legal Assistance, signed at Sofia on 23 March 1956, still in force between Bulgaria and Slovenia,
- the Treaty between the People's Republic of Romania and the People's Republic of Hungary on Legal Assistance in Civil, Family and Criminal Matters, signed at Bucharest on 7 October 1958,
- the Treaty between the People's Republic of Romania and the Czechoslovak Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Prague on 25 October 1958, still in force between Romania and Slovakia,
- the Agreement between the People's Republic of Bulgaria and the Romanian People's Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Sofia on 3 December 1958,
- the Treaty between the People's Republic of Romania and the Federal People's Republic of Yugoslavia on Legal Assistance, signed at Belgrade on 18 October 1960 and its Protocol, still in force between Romania and Slovenia,
- the Agreement between the People's Republic of Bulgaria and the Polish People's Republic on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, signed at Warsaw on 4 December 1961,
- the Convention between the Socialist Republic of Romania and the Republic of Austria on Legal Assistance in Civil and Family law and the Validity and Service of Documents and its annexed Protocol, signed at Vienna on 17 November 1965,
- the Agreement between the People's Republic of Bulgaria and the Hungarian People's Republic on Legal Assistance in Civil, Family and Criminal Matters, signed at Sofia on 16 May 1966,
- the Convention between the Socialist Republic of Romania and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters and its Protocol, signed at Bucharest on 19 October 1972,
- the Convention between the Socialist Republic of Romania and the Italian Republic on Judicial Assistance in Civil and Criminal Matters, signed at Bucharest on 11 November 1972,
- the Convention between the Socialist Republic of Romania and the French Republic on Legal Assistance in Civil and Commercial Matters, signed at Paris on 5 November 1974,
- the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Legal Assistance in Civil and Commercial Matters, signed at Bucharest on 30 October 1975,
- the Agreement between the People's Republic of Bulgaria and the Hellenic Republic on Legal Assistance in Civil and Criminal Matters, signed at Athens on 10 April 1976,

- the Agreement between the People's Republic of Bulgaria and the Czechoslovak Socialist Republic on Legal Assistance and Settlement of Relations in Civil, Family and Criminal Matters, signed at Sofia on 25 November 1976,
- the Convention between the Socialist Republic of Romania and the United Kingdom of Great Britain and Northern Ireland on Legal Assistance in Civil and Commercial Matters, signed at London on 15 June 1978,
- the Additional Protocol to the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Legal Assistance Civil and Commercial Matters, signed at Bucharest on 30 October 1979,
- the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Recognition and Enforcement of Decisions in Alimony Obligations, signed at Bucharest on 30 October 1979,
- the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on Recognition and Enforcement of Divorce Decisions, signed at Bucharest on 6 November 1980,
- the Agreement between the People's Republic of Bulgaria and the Republic of Cyprus on Legal Assistance in Civil and Criminal Matters, signed at Nicosia on 29 April 1983,
- the Agreement between the Government of the People's Republic of Bulgaria and the Government of the French Republic on Mutual Legal Assistance in Civil Matters, signed at Sofia on 18 January 1989,
- the Agreement between the People's Republic of Bulgaria and the Italian Republic on Legal Assistance and Enforcement of Decisions in Civil Matters, signed at Rome on 18 May 1990,
- the Agreement between the Republic of Bulgaria and the Kingdom of Spain on Mutual Legal Assistance in Civil Matters, signed at Sofia on 23 May 1993,
- the Treaty between Romania and the Czech Republic on Judicial Assistance in Civil Matters, signed at Bucharest on 11 July 1994,
- the Convention between Romania and the Kingdom of Spain on Jurisdiction, Recognition and Enforcement of Decisions in Civil and Commercial Matters, signed at Bucharest on 17 November 1997,
- the Convention between Romania and the Kingdom of Spain — complementary to the Hague Convention relating to civil procedure law (Hague, 1 March 1954), signed at Bucharest on 17 November 1997,
- the Treaty between Romania and the Republic of Poland on Legal Assistance and Legal Relations in Civil Cases, signed at Bucharest on 15 May 1999.



**ANNEX X**

**Repealed Regulation with list of its successive amendments**

Council Regulation (EC) No 44/2001 OJ L012, 16.01.2001	
Commission Regulation (EC) No 1496/2002 (OJ L 225, 22.8.2002, p. 13)	
Point 18(A)(3) of Annex II to the 2003 Act of Accession (OJ L 236, 23.9.2003, p. 561)	
Commission Regulation (EC) No 1937/2004 (OJ L 334, 10.11.2004, p. 3)	
Commission Regulation (EC) No 2245/2004 (OJ L 381, 28.12.2004, p. 10)	
Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1)	only point 11(A)(2) of the Annex
Regulation (EC) No 1103/2008 (OJ L 304, 14.11.2008, p. 80)	only point 1 of the Annex
Commission Regulation (EC) No 280/2009 (OJ L 093, 7.4.2009, p. 13)	
Commission Regulation (EU) No 416/2010 (OJ L 119, 13.5.2010, p. 7)	

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## ANNEX XI

### CORRELATION TABLE

Regulation (EC) No 44/2001	This Regulation
Article 1(1)	Article 1(1)
Article 1(2), introductory words	Article 1(2), introductory words
Article 1(2)(a) to (d)	Article 1(2)(a) to (d)
_____	Article 1(2)(e)
Article 1(3)	Article 1(3)
_____	Article 2
Article 2	Article 3
Article 3(1)	Article 4(1)
Article 3(2)	_____
_____	Article 4(2)
Article 4	_____
Article 5, introductory words	Article 5, introductory words
Article 5(1)	Article 5(1)
Article 5(2)	_____
Article 5(3)	Article 5(2)
_____	Article 5(3)
Article 5(4) to (7)	Article 5(4) to (7)
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11

Article 12	Article 12
Article 13	Article 13
Article 14	Article 14
Article 15	Article 15
Article 16	Article 16
Article 17	Article 17
Article 18	Article 18
Article 19	Article 19
Article 20	Article 20
Article 21	Article 21
Article 22, introductory words	Article 22, introductory words
Article 22 (1)	Article 22 (1) (a)
_____	Article 22 (1) (b)
Article 22 (2) to (5)	Article 22 (2) to (5)
Article 23(1) to (2)	Article 23(1) to (2)
Article 23(3)	_____
Article 23(4) to (5)	Article 23(3) to (4)
Article 24	Article 24 (1)
_____	Article 24 (2)
_____	Article 25
_____	Article 26
Article 25	Article 27
Article 26 (1) to (2)	Article 28(1)
Article 26 (3) to (4)	Article 28 (2) to (3)
Article 27(1)	Article 29(1)
_____	Article 29(2)

Article 27(2)	Article 29(3)
_____	Article 29(4)
Article 28	Article 30
_____	Article 31
Article 29	Article 32(1)
_____	Article 32(2)
Article 30	Article 33(1)(a) and (b)
_____	Article 33(1), second supparagraph
_____	Article 33(2) to (3)
_____	Article 34
_____	Article 35
Article 31	Article 36
Article 32	Article 2(a)
_____	Article 37
_____	Article 38
_____	Article 39
_____	Article 40
_____	Article 41
_____	Article 42
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_____	Article 46
Article 33	Article 47
Article 34	Article 48
Article 35	_____

Article 36	Article 64
Article 37(1)	Article 49
Article 37(2)	_____
Article 38(1)	Article 50
Article 38(2)	_____
Article 39	Article 51
Article 40(1)	Article 52(1)
Article 40(2)	Article 65
Article 40(3)	Article 52(2)
Article 41	Article 54
Article 42	Article 55
Article 43	Article 56
Article 44	Article 57
Article 45(1)	Article 58(1) and (3)
Article 45(2)	Article 64
_____	Article 58(2)
Article 46(1)	Article 59
Article 46(2) to (3)	_____
Article 47	Article 60
Article 48	Article 61
Article 49	Article 67
Article 50	Article 62
Article 51	Article 68
Article 52	Article 63
_____	Article 66
_____	Article 69

Article 53	Article 52(2)(a)
Article 54	Article 52(2) b
Article 55	Article 53
Article 56	Article 72
Article 57(1)	Article 70(1)
Article 57(2)	_____
Article 57(3)	Article 70(2)
Article 57(4)	Article 70(3)
Article 58	Article 71
Article 59(1)	Article 73
Article 59(2)	_____
Article 60	Article 74
Article 61	Article 75
Article 62	_____
Article 63	_____
Article 64	_____
Article 65(1)	Article 76(1)
_____	Article 76(1), second subparagraph
Article 65(2)	Article 76(2)
Article 66	Article 77
Article 67	Article 78
Article 68	Article 79
Article 69	Article 80
Article 70	Article 81
Article 71	Article 82
Article 72	Article 83



_____	Article 84
Article 73	_____
_____	Article 85
_____	Article 86
_____	Article 87
Article 74(1)	Article 88(1)
Article 74(2)	Article 88(2)
_____	Article 89
_____	Article 90
_____	Article 91
_____	Article 92
Article 75	_____
Article 76	Article 93
Annexes I to III	_____
Annex IV	_____
_____	Annexes I to IV
Annex V	Annex VI
Annex VI	Annex VII
_____	Annexes VIII to XI