

**PROTOCOLS CONFERRING
ON THE COURT OF JUSTICE JURISDICTION**
to interpret
the Conventions concluded
under article 220 of the EEC Treaty

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ECSC - EEC - EAEC

*Convention signed by the member states
of the Community, which is the
basis of the present protocol*

**PROTOCOL
CONCERNING THE INTERPRETATION
BY THE COURT OF JUSTICE
OF THE CONVENTION OF 29 FEBRUARY 1968
ON THE MUTUAL RECOGNITION
OF COMPANIES AND LEGAL PERSONS**

**PROTOCOL
CONCERNING THE INTERPRETATION
BY THE COURT OF JUSTICE
OF THE CONVENTION OF 27 SEPTEMBER 1968
ON JURISDICTION AND THE ENFORCEMENT
OF CIVIL AND COMMERCIAL JUDGMENTS**

(signed at Luxembourg on 3 June 1971)

SECRETARIAT OF THE COMMISSION

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The two protocols reproduced in this publication were concluded by the representatives of the Governments of the Member States of the European Communities. Like the two conventions * to which they relate, they will enter into force only after ratification by the Member States.

* See Supplement to Bulletin 2-1969 of the European Communities.

PROTOCOL
CONCERNING THE INTERPRETATION
BY THE COURT OF JUSTICE
OF THE CONVENTION OF 29 FEBRUARY 1968
ON THE MUTUAL RECOGNITION
OF COMPANIES AND LEGAL PERSONS



The High Contracting Parties to the Treaty establishing the European Economic Community,

Having regard to the Joint Declaration No. 3 appearing in the Protocol annexed to the Convention on the Mutual Recognition of Companies and Legal Persons, signed at Brussels on 29 February 1968,

Have decided to conclude a Protocol bestowing powers on the Court of Justice of the European Communities to interpret the said Convention and to this end have designated as Plenipotentiaries :

His Majesty the King of the Belgians:

Mr Alfons Vranckx, Minister of Justice;

The President of the Federal Republic of Germany:

Mr Gerhard Jahn, Federal Minister of Justice;

The President of the French Republic:

Mr René Pleven, Keeper of the Seals, Minister of Justice;

The President of the Italian Republic:

Mr Erminio Pennacchini, Deputy State Secretary, Ministry of Justice and Pardons;

His Royal Highness the Grand Duke of Luxembourg:

Mr Eugène Schaus, Minister of Justice, Deputy Prime Minister;

Her Majesty the Queen of the Netherlands:

Mr C.H.F. Polak, Minister of Justice;

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

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give preliminary rulings concerning the interpretation of the Convention on the Mutual Recognition of Companies and Legal Persons and the Joint Declaration No. 1 appearing in the Protocol annexed to that Convention, signed at Brussels on 29 February 1968, and concerning the interpretation of this Protocol.

Article 2

1. Where a question relating to the interpretation of the Convention and the other texts mentioned in Article 1 is raised before any court or tribunal of one of the Contracting States, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereas.

2. Where such a question is raised in a case pending before a court or tribunal of a member State, from whose decisions there is no possibility of appeal under internal law, that court or tribunal shall be bound to bring the matter before the Court of Justice.

Article 3

1. Except where this Protocol provides otherwise, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is required to give a preliminary ruling, shall apply also to the procedure for the interpretation of the Convention and the other texts mentioned in Article 1.

2. The Rules of Procedure of the Court of Justice shall be adapted and supplemented, as necessary, in conformity with Article 188 of the Treaty establishing the European Economic Community.

Article 4

This Protocol shall apply to the European territory of the Contracting States, to the French Overseas Departments and to the French Overseas Territories.

The Kingdom of the Netherlands may, at the time of signing or of ratifying this Protocol, or at any time subsequently, by notifying the Secretary-

General of the Council of the European Communities, declare that this Protocol shall apply to Surinam and to the Netherlands Antilles.

Article 5

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

Article 6

This Protocol shall come into force on the first day of the third month following the deposit of the instrument of ratification of the last Signatory State to complete this formality. However, its entry into force shall occur at the earliest at the same time as that of the Convention of 29 February 1968 on the Mutual Recognition of Companies and Legal Persons.

Article 7

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

- (a) the deposit of any instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) the declarations received pursuant to Article 4, second paragraph.

Article 8

This Protocol shall be concluded for an unlimited period.

Article 9

Each Contracting State may ask for this Protocol to be revised. In that event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 10

This Protocol, drawn up in a single original in the German, French, Italian and Dutch languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each of the Signatory States.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures below this Protocol.

Done at Luxembourg on the third day of June in the year one thousand nine hundred and seventy-one.

Pour sa Majesté le Roi des Belges,
Voor Zijne Majesteit de Koning der Belgen,

Alfons Vranckx

Für den Präsidenten der Bundesrepublik Deutschland,
Gerhard Jahn

Pour le Président de la République Française,
René Pleven

Per il Presidente della Repubblica Italiana,
Erminio Pennacchini

Pour Son Altesse Royale le Grand-Duc de Luxembourg,
Eugène Schaus

Voor Hare Majesteit de Koningin der Nederlanden,
C.H.F. Polak

JOINT DECLARATION

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The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

at the time of signing the Protocol concerning the interpretation by the Court of Justice of the Convention of 29 February 1968 on the Mutual Recognition of Companies and Legal Persons,

wishing to ensure that these provisions are applied as effectively and as uniformly as possible,

declare that they are willing, in co-operation with the Court of Justice, to organise an exchange of information on the decisions made by the courts and tribunals mentioned in Article 2(2) of the said Protocol in application of the Convention of 29 February 1968 and of the Joint Declaration No. 1 appearing in the Protocol annexed to that Convention.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures below this Protocol.

Done at Luxembourg on the third day of June in the year one thousand nine hundred and seventy- one.

*Pour Sa Majesté le Roi des Belges,
Voor Zijne Majesteit de Koning der Belgen,*

Alfons Vranckx

Für den Präsidenten der Bundesrepublik Deutschland,

Gerhard Jahn

Pour le Président de la République Française,

René Pleven

Per il Presidente della Repubblica Italiana,

Erminio Pennacchini

Pour Son Altesse Royale le Grand-Duc de Luxembourg,
Eugène Schaus

Voor Hare Majesteit de Koningin der Nederlanden,
C.H.F. Polak

PROTOCOL
CONCERNING THE INTERPRETATION
BY THE COURT OF JUSTICE
OF THE CONVENTION OF 27 SEPTEMBER 1968
ON JURISDICTION AND THE ENFORCEMENT
OF CIVIL AND COMMERCIAL JUDGMENTS



The High Contracting Parties to the Treaty establishing the European Economic Community,

HAVING REGARD to the Declaration annexed to the Convention on Jurisdiction and the Enforcement of Civil and Commercial Judgments signed at Brussels on 27 September 1968,

HAVE DECIDED to conclude a Protocol bestowing powers on the Court of Justice of the European Communities to interpret the said Convention and to this end have designated as Plenipotentiaries:

His Majesty the King of the Belgians:

Mr Alfons Vranckx, Minister of Justice;

The President of the Federal Republic of Germany:

Mr Gerhard Jahn, Federal Minister of Justice;

The President of the French Republic:

Mr René Pleven, Keeper of the Seals, Minister of Justice;

The President of the Italian Republic:

Mr Erminio Pennacchini, Deputy State Secretary, Ministry of Justice and Pardons;

His Royal Highness the Grand Duke of Luxembourg:

Mr Eugène Schaus, Minister of Justice, Deputy Prime Minister;

Her Majesty the Queen of the Netherlands:

Mr C.H.F. Polak, Minister of Justice;

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

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give preliminary rulings concerning the interpretation of the Convention on Jurisdiction and the Enforcement of Civil and Commercial Judgments and the Protocol annexed to that Convention, signed at Brussels on 27 September 1968, and concerning the interpretation of this Protocol.

Article 2

The following courts and tribunals shall have the power to ask the Court of Justice to give preliminary rulings on questions of interpretation:

1. in Belgium: la Cour de Cassation — het Hof van Cassatie and le Conseil d'Etat — de Raad van State,
in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,
in France: la Cour de Cassation and le Conseil d'Etat,
in Italy: la Corte Suprema di Cassazione,
in Luxembourg: la Cour supérieure de Justice, when sitting as Supreme Court of Appeal,
in the Netherlands: de Hoge Raad;
2. the courts and tribunals of the Contracting States when they are hearing appeals;
3. in the cases provided for in Article 37 of the Convention, the courts and tribunals mentioned in the said article.

Article 3

1. Where a question relating to the interpretation of the Convention and the other texts mentioned in Article 1 is raised in a case pending before a court or tribunal indicated in Article 2, point 1, that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to give judgment, be bound to request the Court of Justice to give a ruling thereon.
2. Where such a question is raised before any court or tribunal indicated in Article 2, points 2 and 3, that court or tribunal may, in the circumstances specified in paragraph 1, request the Court of Justice to give a ruling.

Article 4

1. The competent authority of a Contracting State may ask the Court of Justice to give a ruling on a question of interpretation of the Convention and of the other texts mentioned in Article 1 if decisions made by courts or tribunals of that State are in conflict with the interpretation given either by the Court of Justice or by a decision of a court or tribunal of another Contracting State mentioned in Article 2, points 1 and 2. The provisions of this paragraph shall apply only to judgments at law.
2. The interpretation given by the Court of Justice following such a request shall not affect the decisions in respect of which the interpretation was requested.
3. The Attorney Generals at the Supreme Courts of Appeal of the Contracting States or any other authority designated by a Contracting State shall be empowered to lay before the Court of Justice a request for interpretation in conformity with paragraph 1.
4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities which, within a period of two months as from this notice, may submit briefs or written observations to the Court.
5. The procedure provided for in this Article shall not involve either the levying or reimbursement of costs or expenses.

Article 5

1. Except where this Protocol provides otherwise, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is required to give a preliminary ruling, shall apply also to the procedure for the interpretation of the Convention and the other texts mentioned in Article 1.
2. The Rules of Procedure of the Court of Justice shall be adapted and supplemented, as necessary, in conformity with Article 188 of the Treaty establishing the European Economic Community.

Article 6

This Protocol shall apply to the European territory of the Contracting States, to the French Overseas Departments and to the French Overseas Territories.

The Kingdom of the Netherlands may, at the time of signing or of ratifying this Protocol, or at any time subsequently, by notifying the Secretary-General of the Council of the European Communities, declare that this Protocol shall apply to Surinam and to the Netherlands Antilles.

Article 7

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

Article 8

This Protocol shall come into force on the first day of the third month following the deposit of the instrument of ratification of the last Signatory State to complete this formality. However, its entry into force shall occur at the earliest at the same time as that of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Civil and Commercial Judgments.

Article 9

The Contracting States recognize that any State which becomes a member of the European Economic Community and to which Article 63 of the Convention on Jurisdiction and the Enforcement of Civil and Commercial Judgments applies, must accept the provisions of this Protocol, subject to such adaptations as may be required.

Article 10

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

- (a) the deposit of any instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) the declarations received pursuant to Article 4(3);
- (d) the declarations received pursuant to Article 6, second paragraph.

Article 11

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of those of their legislative provisions which will require that an amendment be made to the list of courts and tribunals specified in Article 2, point 1.

Article 12

This Protocol shall be concluded for an unlimited period.

Article 13

Each Contracting State may ask for this Protocol to be revised. In that event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 14

This Protocol, drawn up in a single original in the German, French, Italian and Dutch languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each of the Signatory States.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures below this Protocol.

Done at Luxembourg on the third day of June in the year one thousand nine hundred and seventy-one.

Pour Sa Majesté le Roi des Belges,
Voor Zijne Majesteit de Koning der Belgen,
Alfons Vranckx

Für den Präsidenten der Bundesrepublik Deutschland,
Gerhard Jahn

Pour le Président de la République Française,
René Pleven

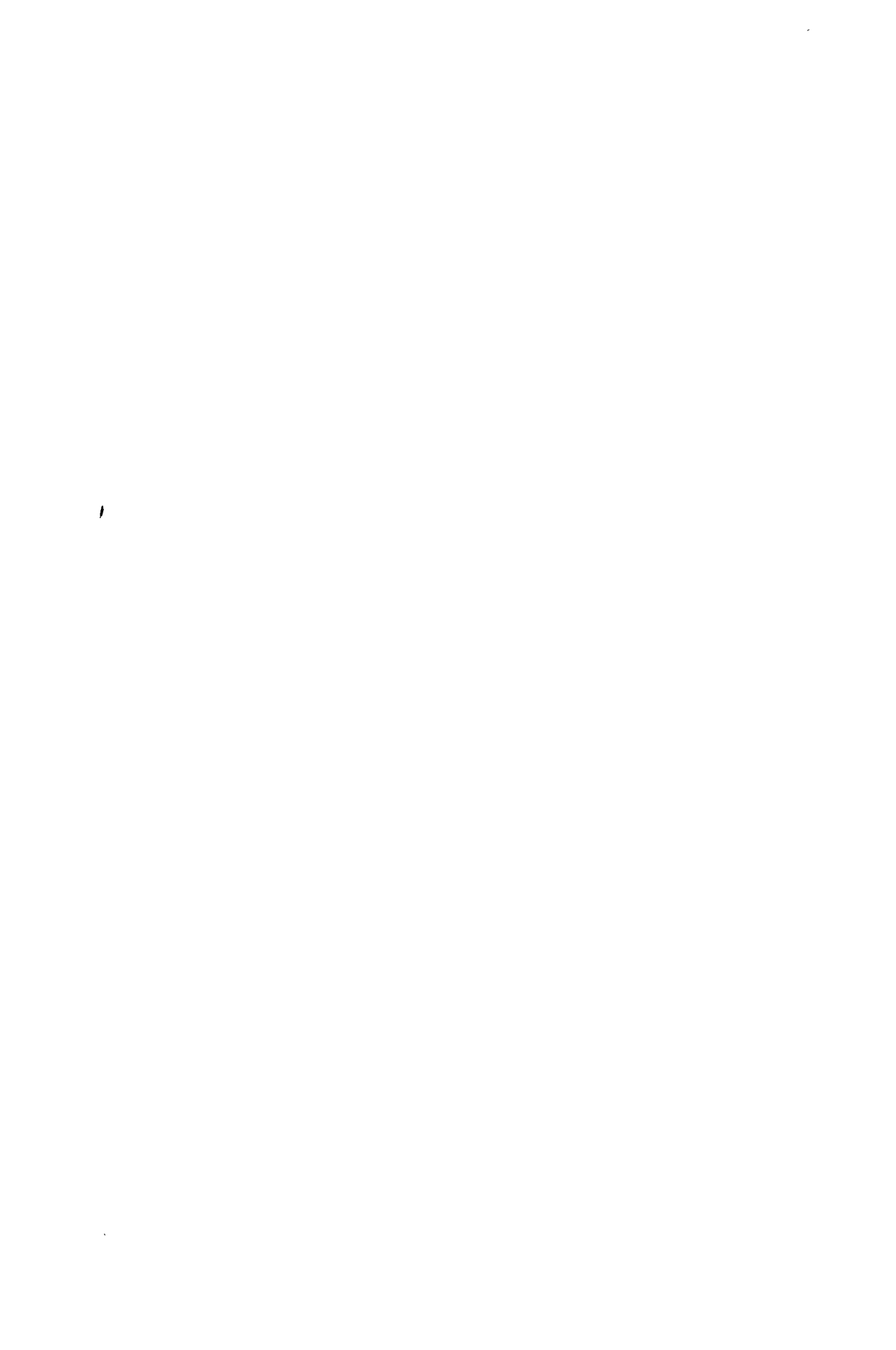
Per il Presidente della Repubblica Italiana,
Erminio Pennacchini

Pour Son Altesse Royale le Grand-Duc de Luxembourg,
Eugène Schaus

Voor Hare Majesteit de Koningin der Nederlanden,
C.H.F. Polak



JOINT DECLARATION



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The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

at the time of signing the Protocol concerning the interpretation by the Court of Justice of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Civil and Commercial Judgments,

wishing to ensure that these provisions are applied as effectively and as uniformly as possible,

declare that they are willing, in co-operation with the Court of Justice, to organise an exchange of information on the decisions made by the courts and tribunals mentioned in Article 2, point 1 of the said Protocol in application of the Convention and the Protocol of 27 September 1968.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have affixed their signatures below this Protocol

Done at Luxembourg on the third day of June in the year one thousand nine hundred and seventy-one.

*Pour Sa Majesté le Roi des Belges,
Voor Zijne Majesteit de Koning der Belgen,*

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