

words "judgment creditor" mean the person in whose favour the judgment was given, and include his successor and assigns.

ARTICLE 2.

1. Judgments pronounced after the date of the entry into force of the present Convention by a superior court in the territory of one High Contracting Party, other than judgments rendered on appeal from inferior courts, shall, whatever the nationality of the judgment creditor or debtor, be recognised and enforced in the territory of the other in the cases and upon the conditions laid down in Articles 3 to 8 inclusive of the present Convention.

2. Nothing in the present Convention shall be deemed to preclude the recognition and enforcement in the territory of one High Contracting Party, in accordance with the municipal law for the time being in force in the country concerned, of judgments pronounced by a court in the territory of the other High Contracting Party, being judgments to which the present Convention does not apply, or judgments given in circumstances where the provisions of the present Convention do not require such recognition or enforcement.

ARTICLE 3.

1. Judgments in civil and commercial matters, given by any superior court in the territory of one High Contracting Party, and executory in the country of the original court, although still open to proceedings by way of opposition, appeal or setting aside shall, in the courts of the territory of the other, be recognised in all cases where no objection to the judgment can be established on any of the grounds hereinafter enumerated, that is to say, unless:

(a) In the case in question the jurisdiction of the original court is not recognised under the rules of Private International Law with regard to jurisdiction observed by the court applied to;

(b) The judgment was given in default, and the judgment debtor did not appear in the proceedings and satisfies the court applied to that he did not actually acquire knowledge of the proceedings in reasonably sufficient time to act upon it. It is understood that in all cases where it is proved that notice of the proceedings has been duly served on the defendant in conformity with the provisions of Article 3 or 4 of the Convention signed between the High Contracting Parties on the 21st June, 1922, it shall be deemed to be conclusive evidence that the defendant actually acquired knowledge of the proceedings;

(c) The judgment is one which is contrary to the public policy of the country of the court applied to;

(d) The judgment is in respect of a cause of action which had already at the date when it was given, as between the same parties, formed the subject of another judgment which is recognised under the law of the court applied to as final and conclusive;

(e) The judgment has, in the opinion of the court applied to, been obtained by fraud;

(f) In the opinion of the Court applied to, the judgment was given against a person, defendant in the proceedings, who under the rules of public international law was entitled to immunity from the jurisdiction of the

original court, and did not submit to the jurisdiction of the original court; or is sought to be enforced against a person who is entitled under the rules of public international law to immunity from the jurisdiction of the court applied to;

(g) The judgment debtor satisfies the court applied to that proceedings by way of appeal, opposition or setting aside have been instituted against the judgment in the country of the original court.

It is understood that if such proceedings have not been actually instituted, but the time for lodging an appeal, opposition or application to set aside has not expired under the law of the country of the original court, the court applied to may, if it thinks fit, adjourn its decision on the recognition of the judgment so as to allow the judgment debtor a reasonable opportunity of instituting such proceedings.

2. Recognition of a judgment shall not be refused merely on the ground that the original court has applied, in the choice of the system of law applicable to the case, rules of Private International Law different from those observed by the court applied to.

3. The recognition of a judgment under paragraph 1 of this article means that such judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action as between the parties (judgment creditor and judgment debtor), and as to such matter shall constitute a defence against further action between them in respect of the same cause of action.

ARTICLE 4.

1. Notwithstanding the provisions of Article 3, 1 (a) and without prejudice to the provisions of paragraphs 2 and 3 of the present article, the original court shall be recognised as possessing jurisdiction in all cases:

(a) where the judgment debtor was in respect of the matter, which is the subject of the judgment, a plaintiff or counter-claimant in the proceedings in the original court;

(b) where the judgment debtor, being a defendant in the proceedings in the original court, submitted to the jurisdiction by voluntarily appearing in the proceedings. It is understood that the expression "voluntarily appearing in the proceedings" does not include an appearance merely for the purpose of protecting property situated within the jurisdiction of the original court from seizure, or of obtaining the release of property seized, or for the purpose of contesting the jurisdiction of the original court;

(c) where the judgment debtor, being a defendant in the proceedings in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of the original court or of the courts of the country of the original court;

(d) where, at the time when the proceedings were instituted, the judgment debtor, being a defendant in the original court, was resident in the country of the original court, or, being a company or other body corporate, had its head office in the country of the original court;