



STATUTORY INSTRUMENTS.

S.I. No. 113 of 2018



CHOICE OF COURT (HAGUE CONVENTION) ACT 2015 (SECTION 2)
ORDER 2018

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I, CHARLES FLANAGAN, Minister for Justice and Equality, in exercise of the powers conferred on me by section 2(1) of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015), hereby order as follows:

1. This Order may be cited as the Choice of Court (Hague Convention) Act 2015 (Section 2) Order 2018.

2. It is hereby declared that—

- (a) the states specified in Schedule 1 are Contracting States for the purposes of section 2 of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015), and
- (b) a declaration (the text of which in the English language is set out in Schedule 2) has been made to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, by the European Union, pursuant to Article 21 of the Convention.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th April, 2018.*

SCHEDULE 1

Austria	Greece	Poland
Belgium	Hungary	Portugal
Bulgaria	Ireland	Romania
Croatia	Italy	Singapore
Cyprus	Latvia	Slovakia
Czech Republic	Lithuania	Slovenia
Estonia	Luxembourg	Spain
Finland	Malta	Sweden
France	Mexico	United Kingdom
Germany	Netherlands	

SCHEDULE 2

Declaration by the European Union at the time of approval of the Hague Convention of 30 June 2005 on Choice of Court Agreements ('the Convention') in accordance with Article 21 thereof—

“The objective of this declaration which excludes certain types of insurance contracts from the scope of the Convention is to protect certain policyholders, insured parties and beneficiaries who, according to internal EU law, receive special protection.

1. The European Union declares, in accordance with Article 21 of the Convention, that it will not apply the Convention to insurance contracts, except as provided for in paragraph 2 below.

2. The European Union will apply the Convention to insurance contracts in the following cases:

- (a) where the contract is a reinsurance contract;
- (b) where the choice of court agreement is entered into after the dispute has arisen;
- (c) where, without prejudice to Article 1 (2) of the Convention, the choice of court agreement is concluded between a policyholder and an insurer, both of whom are, at the time of the conclusion of the contract of insurance, domiciled or habitually resident in the same Contracting State, and that agreement 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;
- (d) where the choice of court agreement relates to a contract of insurance which covers one or more of the following risks considered to be large risks:

- (i) any loss or damage arising from perils which relate to their use for commercial purposes, of, or to:
 - (a) seagoing ships, installations situated offshore or on the high seas or river, canal and lake vessels;
 - (b) aircraft;
 - (c) railway rolling stock;
- (ii) any loss of or damage to goods in transit or baggage other than passengers' baggage, irrespective of the form of transport;
- (iii) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, arising out of the use or operation of:
 - (a) ships, installations or vessels as referred to in point (i)(a);
 - (b) aircraft, in so far as the law of the Contracting State in which such aircraft are registered does not prohibit choice of court agreements regarding the insurance of such risks;
 - (c) railway rolling stock;
- (iv) any liability, other than for bodily injury to passengers or loss of or damage to their baggage, for loss or damage caused by goods in transit or baggage as referred to in point (ii);
- (v) any financial loss connected with the use or operation of ships, installations, vessels, aircraft or railway rolling stock as referred to in point (i), in particular loss of freight or charter-hire;
- (vi) any risk or interest connected with any of the risks referred to in points (i) to (v);
- (vii) any credit risk or suretyship risk where the policy holder is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;
- (viii) any other risks where the policy holder carries on a business of a size which exceeds the limits of at least two of the following criteria:
 - (a) a balance-sheet total of EUR 6,2 million;
 - (b) a net turnover of EUR 12,8 million;
 - (c) an average number of 250 employees during the financial year.”

Unilateral declaration by the European Union at the time of the approval of the Hague Convention of 30 June 2005 on Choice of Court Agreements (‘the Convention’)—

“The European Union makes the following unilateral declaration:

The European Union declares that it may, at a later stage in the light: of the experience acquired in the application of the Convention, reassess the need to maintain its declaration under Article 21 of the Convention.”



GIVEN under my Official Seal,
29 March 2018.

CHARLES FLANAGAN,
Minister for Justice and Equality.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

This Order specifies the States which are Contracting States for the purposes of section 2 of the Choice of Court (Hague Convention) Act 2015 (No. 38 of 2015), and includes the text of Declarations made by the European Union concerning the exclusion of certain types of insurance contracts from the scope of the Convention in order to protect the special position under EU law of certain policyholders, insured parties and beneficiaries.

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