

Case C-129/92

Owens Bank Ltd
v
Fulvio Bracco and
Bracco Industria Chimica SpA

(Reference for a preliminary ruling
from the House of Lords)

(Brussels Convention — Interpretation of Articles 21,
22 and 23 — Recognition and enforcement of judgments
given in non-contracting States)

Opinion of Mr Advocate General Lenz delivered on 16 September 1993	I - 119
Judgment of the Court (Sixth Chamber), 20 January 1994	I - 146

Summary of the Judgment

Convention on Jurisdiction and the Enforcement of Judgments — Scope — Proceedings for the recognition and enforcement in a Contracting State of judgments given in non-contracting States — Excluded — Need for a decision on a preliminary issue — Irrelevant (Convention of 27 September 1968)

The Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters and, in particular, Articles 21, 22 and 23 thereof do not apply to proceedings, or to issues arising in proceedings, in Contracting States for the recognition and enforcement of judgments given in civil and commercial matters in non-contracting States.

First, it follows from Articles 26 and 31 of the Convention, which are to be read in conjunction with Article 25, that the procedures provided for in Title III of the Convention, which concerns recognition and enforcement, apply only to judgments given by the courts of Contracting States. Secondly, the rules on jurisdiction contained in Title II of the Convention do not establish the forum in which proceedings for the recognition and enforcement of judgments given in non-

contracting States are to take place, having regard to the fact that Article 16(5), which provides that in proceedings concerned with the enforcement of judgments the courts of the Contracting State in which the judgment has been or is to be enforced are to have exclusive jurisdiction, is also to be read in conjunction with the definition of 'judgment' contained in Article 25. No distinction can be drawn in that regard between an order for enforcement *simpliciter* and a judgment of a court of a Contracting State ruling on an issue arising in proceedings for the enforcement of a judgment given in a non-contracting State, since if the subject-matter of such a dispute is such that it falls outside the scope of the Convention, the existence of a preliminary issue on which the court has to give a ruling in order to decide the dispute cannot justify the application of the Convention, whatever the nature of that issue may be.