



Second Study Commission
Civil law and procedure

Meeting in Tunis (Tunisia), 23 - 25 October 1980

Conclusions

EFFECTS OF FOREIGN JUDGMENTS IN FIELDS NOT COVERED BY INTERNATIONAL CONVENTIONS.
POSSIBILITIES, MEANS AND METHODS OF EXECUTING URGENT MEASURES
IN THE FIELD OF FAMILY LAW

1. The recognition and execution of a foreign judgment upon a matter finally determined should be favoured.
2. The commission agrees that in general the principle of reciprocity should be abandoned.
3. Provisional measures concerning payment of alimony should be capable of execution in the requested state, according to the convention of the Hague 15.4.1958.
4. The II Commission states that:
 - In the field of family law more and more problems arise due to the mobility of the populations and the increase of marriages between individuals of different nationalities.
 - In most countries the possibility of directly executing urgent measures in the field of family law, pronounced by a foreign judge pendente lite is excluded.
 - In this field, trying to protect the fundamental rights of a person is associated with speed of intervention, especially in the area of the custody of children.
 - In a general way, in matters regarding custody of children, the predominant principle by which the authorities must be guided in their decision is the interest of the child; this principle is pronounced in the European convention of May 20, 1980, which provides for a simplified procedure in this field.
5. The commission recommends that the said convention should be ratified by all the countries which have signed it and that a similar convention ought to be adopted by the other countries, which are not members of the Council of Europe, with the exclusion of certain limitations contained in the European convention.
6. The commission thinks that art. 7 of the above mentioned convention should be interpreted as to be applicable to urgent interim measures.