

5 AVRIL 2011

ORDONNANCE

**AFFAIRE RELATIVE À LA COMPÉTENCE JUDICIAIRE ET À L'EXÉCUTION
DES DÉCISIONS EN MATIÈRE CIVILE ET COMMERCIALE**

(BELGIQUE c. SUISSE)

**CASE CONCERNING JURISDICTION AND ENFORCEMENT OF JUDGMENTS
IN CIVIL AND COMMERCIAL MATTERS**

(BELGIUM v. SWITZERLAND)

5 APRIL 2011

ORDER

INTERNATIONAL COURT OF JUSTICE

YEAR 2011

**2011
5 April
General List
No. 145**

5 April 2011

**JURISDICTION AND ENFORCEMENT OF JUDGMENTS
IN CIVIL AND COMMERCIAL MATTERS**

(BELGIUM *v.* SWITZERLAND)

ORDER

Present: President OWADA; Vice-President TOMKA; Judges KOROMA, AL-KHASAWNEH, SIMMA, ABRAHAM, KEITH, SEPÚLVEDA-AMOR, SKOTNIKOV, CANÇADO TRINDADE, YUSUF, GREENWOOD, XUE, DONOGHUE; Registrar COUVREUR.

The International Court of Justice,

Composed as above,

Having regard to Article 48 of the Statute of the Court and to Article 89, paragraph 2, of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 21 December 2009, whereby the Kingdom of Belgium instituted proceedings against the Swiss Confederation in respect of a dispute concerning

“the interpretation and application of the Lugano Convention of 16 September 1988 on jurisdiction and the enforcement of judgments in civil and commercial matters . . . ,

as well as the application of the rules of general international law governing the exercise of State authority, in particular in judicial matters . . . [, and relating] to the decision by Swiss courts not to recognize a judgment of the Belgian courts and not to stay proceedings which were later initiated in Switzerland on the subject of the same dispute”,

Having regard to the Order dated 4 February 2010, whereby the Court, taking into account the agreement of the Parties and the circumstances of the case, fixed 23 August 2010 and 25 April 2011, respectively, as the time-limits for the filing of the Memorial of the Kingdom of Belgium and the Counter-Memorial of the Swiss Confederation,

Having regard to the Order dated 10 August 2010, whereby the President of the Court, at the request of the Kingdom of Belgium, extended to 23 November 2010 and 24 October 2011, respectively, the time-limits for the filing of the Memorial and the Counter-Memorial,

Having regard to the Memorial of the Kingdom of Belgium, filed within the time-limit as extended,

Having regard to the preliminary objections to the jurisdiction of the Court and the admissibility of the Application which were raised by the Swiss Confederation on 18 February 2011, within the time-limit set by Article 79, paragraph 1, of the Rules of Court;

Whereas, in a letter dated 21 March 2011 and received in the Registry by facsimile on the same day, the Agent of the Kingdom of Belgium stated that the Swiss Confederation, in its preliminary objections, had

“indicate[d] that the reference by the [Swiss] Federal Supreme Court in its 30 September 2008 judgment to the non-recognizability of a future Belgian judgment [did] not have the force of *res judicata* and [did] not bind either the lower cantonal courts or the Federal Supreme Court itself, and that there [was] therefore nothing to prevent a Belgian judgment, once handed down, from being recognized in Switzerland in accordance with the applicable treaty provisions”;

whereas he added that “[i]n the light of this statement Belgium, . . . in concert with the Commission of the European Union, consider[ed] that it [could] discontinue the proceedings it instituted against Switzerland”; whereas, by the same letter, the Agent of Belgium, referring to Article 89 of the Rules of Court, therefore “request[ed] the Court to make an order recording [Belgium’s] discontinuance of the proceedings and directing that the case be removed from the General List”;

Whereas a copy of the said letter was immediately communicated to the Government of the Swiss Confederation, which was informed that the time-limit provided for in Article 89, paragraph 2, of the Rules of Court, within which the Swiss Confederation could state whether it opposed the discontinuance of the proceedings, had been fixed as 28 March 2011;

Whereas, within the time-limit thus fixed, the Swiss Confederation did not oppose the said discontinuance,

Places on record the discontinuance by the Kingdom of Belgium of the proceedings; and

Orders that the case be removed from the list.

Done in French and in English, the French text being authoritative, at the Peace Palace, The Hague, this fifth day of April, two thousand and eleven, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Kingdom of Belgium and the Government of the Swiss Confederation, respectively.

(Signed) Hisashi OWADA,
President.

(Signed) Philippe COUVREUR,
Registrar.
