## TABLE OF CONTENTS

Preface	V
Introduction	1
Chapter 1 THE METHOD OF INTERPRETATION USED BY THE COURT OF JUSTICE: THE MODEL OF PRINCIPLES	5
<ol> <li>Introduction</li> <li>Reasoning according to the model of principles</li> <li>The model of principles and judicial constraints</li> <li>The problem of conflicting principles</li> <li>Concluding remarks</li> </ol>	5 5 10 12 15
Chapter 2 A BIRD'S-EYE VIEW OF THE SYSTEM OF PRINCIPLES	17
<ol> <li>Introduction</li> <li>The four main principles and their relation to the most general principle underlying the Convention</li> <li>The significance of the most general principle of 'strengthening the legal protection of persons established in the Community'</li> <li>Conclusions and outlook</li> </ol>	17 17 23 24
Chapter 3 THE FIRST MAIN PRINCIPLE: FREE MOVEMENT OF JUDGMENTS	27
<ol> <li>Introduction</li> <li>The principle of <i>full</i> respect for another Contracting State's judgments</li> <li>The principle of a <i>swift</i> and <i>simple</i> procedure for the recognition and enforcement of another Contracting State's judgments</li> <li>Conclusions and summary</li> </ol>	27 30 38 44
Chapter 4 THE SECOND MAIN PRINCIPLE: THE PROTECTION OF THE RIGHTS OF THE DEFENCE	45
<ul> <li>Introduction</li> <li>1. The defendant's right to a proper service of the document instituting the proceedings</li> </ul>	45 47

2.	The defendant's right to be heard in an appropriate court	55
3.	The defendant's right to an <i>inter partes</i> hearing	57
4.	The right to be defended by a lawyer	61
5.	The right to submit a defence on the substance of the case	62
6.	The defendant's interest in staying the execution proceedings when an	
	appeal has been or will be lodged in the state of origin	64
7.	The defendant's right to be properly served with a decision delivered	
	in a Contracting State	65
Conc	lusions and summary	66
Cone	iusions and summary	00
Chap	ter 5	
THE	THIRD MAIN PRINCIPLE: LEGAL CERTAINTY	69
Introd	luction	69
1.	Equality and uniformity of rights and obligations arising from the	
	Convention	71
1.1	Autonomous interpretation of concepts used in the Convention	72
1.2	The Convention prevails over national provisions that are incompat-	12
1.4	ible with it	78
2.		83
2. 3.	Respect for the wording of the Convention's provisions	
	Legal certainty with regard to the scope of the Convention	87
4.	Legal certainty with regard to the allocation of jurisdiction	92
4.1	Clarity as to the rules of jurisdiction	94
4.2	Avoiding (further) multiplication of jurisdiction as regards one and	
	the same legal relationship	98
4.2.1	Avoiding alternative courts having jurisdiction as regards one and	
	the same legal relationship	100
4.2.2	Avoiding different courts having jurisdiction as regards different	
	aspects of one and the same legal relationship: avoiding fragmenta-	
	tion of proceedings	103
4.3	National courts should be able readily to decide whether they are	
	competent to hear a case	108
5.	Legal certainty as to judgments: avoiding irreconcilable decisions	
Conc	lusions and summary	111
Chap	ter 6	
THÊ	FOURTH MAIN PRINCIPLE: DISPUTES SHOULD BE DECIDED	
	N APPROPRIATE COURT	115
Intro	luction	115
1.	The principle of the protection of the weaker party	117
	luction	117
1.1	The principle of the protection of the party who is weaker due to his	
	procedural position	118

1.2	The principle of the protection of the party who is weaker due to his	
	socio-economic position	124
	<ul> <li>Consumers as the weaker party</li> </ul>	132
	<ul> <li>Insurance policyholders as the weaker party</li> </ul>	136
	<ul> <li>Employees as the weaker party</li> </ul>	137
	<ul> <li>Maintenance creditors as the weaker party</li> </ul>	138
1.3	The principle of the protection of the party that might be unaware of	
	a jurisdiction clause incorporated in a contract by the other party	139
Concl	usions and summary	140
2.	The principle of party autonomy	142
	luction	142
2.1	Prorogation by explicit agreement	142
2.2	Prorogation by appearance	152
2.3	Jurisdiction clauses versus agreements concerning the place of	
	performance	157
Concl	usions and summary	159
3.	The principle of a sound administration of justice	160
Introd	luction	160
3.1	The principle that a court that has the practical advantage of first-hand	
	knowledge of the facts, ease of taking evidence and/or knowledge of	
	the applicable law should decide a case	162
3.1.1	Special jurisdictions under Article 5	162
	– Article 5, point 1	169
	- Article 5, point 3	180
	– Article 5, point 4	188
	– Article 5, point 5	188
	– Article 5, points 6 and 7	192
3.1.2	Jurisdiction as to provisional measures under Article 24	192
3.1.3	Exclusive jurisdictions under Article 16	197
3.2	The principle that an entire dispute should be decided by a single	
	court	205
3.2.1	The principle that related cases should be brought before a single	
	court	207
3.2.2	The principle that related actions already brought before different	
	courts should be decided by a single court	213
Concl	usions and summary	223
4.	The overall ideal that an entire dispute should be heard by a single	
	and appropriate court	224
Introd	luction	224
4.1	A party must not be deprived of or removed from the courts that	•
	would otherwise be competent, for no good reason	226

4.2	Mitigating the disadvantages of having different courts ruling on		
	different aspects of the same dispute	229	
4.3	The maxim accessorium sequitur principale	230	
Concl	lusions	232	
Concl	lusions and summary	232	
Final Conclusions			
Appe	Appendices		
1.	Scheme of the Convention's principles and sub-principles	241	
2.	Articles of the 1968 Brussels Convention and corresponding Articles		
	of EC Regulation No. 44/2001	243	
3.	List of cases	267	