

N° 284.

---

**ROYAUME-UNI  
DE GRANDE-BRETAGNE ET  
D'IRLANDE ET FRANCE**

Convention au sujet des Actes de  
Procédure en matière civile et  
commerciale, signée à Londres le  
2 février 1922.

---

**UNITED KINGDOM  
OF GREAT BRITAIN AND  
IRELAND AND FRANCE**

Convention respecting legal proceed-  
ings in Civil and Commercial  
matters, signed at London, Fe-  
bruary 2, 1922.

No. 284. — CONVENTION<sup>1</sup> BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND FRANCE RESPECTING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS, SIGNED AT LONDON, FEBRUARY 2, 1922.

*English and French official texts communicated by His Britannic Majesty's Foreign Office. The registration of this Convention took place July 10, 1922.*

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, and the PRESIDENT OF THE FRENCH REPUBLIC, being desirous to facilitate the conduct of legal proceedings between persons resident in their respective territories, have decided to conclude a Convention for this purpose and have accordingly nominated as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

The Most Honourable the Marquess CURZON OF KEDLESTON, K.G., His Majesty's Principal Secretary of State for Foreign Affairs ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

His Excellency Count DE SAINT-AULAIRE, Ambassador Extraordinary and Plenipotentiary of the French Republic in London ;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

*Article 1.*

This Convention applies only to civil and commercial matters.

TRANSMISSION OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

*Article 2.*

In cases where the law of one of the High Contracting Parties permits documents to be served in the territory of the other, such service may be effected in either of the following ways indicated in Articles 3 and 4.

<sup>1</sup> The exchange of ratifications took place at London, May 2, 1922.

*Article 3.*

(a) The request for service is addressed :

In France, by the British Consul to the " Procureur de la République " within whose jurisdiction the recipient of the document is ;

In England, by the Consul-General of France in London to the Senior Master of the Supreme Court of Judicature in England.

(b) The request is drawn up in the language of the authority applied to. It contains the name of the authority from whom the document enclosed emanates, the names and descriptions of the parties, and the address of the recipient. It is accompanied by the original and two copies of the document in question in the language of the State making the request, and by a translation certified by the consular authority of that State, and a copy of such translation.

(c) The service is effected by the delivery of the original or a copy of the document, as indicated in the request, and the copy of the translation, to the recipient in person, in England, by a process server ; in France, by a " huissier " appointed by the " Procureur de la République."

(d) The judicial authority applied to transmits to the consular authority making the request a certificate establishing the fact and the date of the service in person, or indicating the reasons for which it has not been possible to effect it.

(e) When the document transmitted to the " Procureur de la République " is intended for a person resident in another jurisdiction, this magistrate will immediately notify the consular authority making the request, and will, of his own motion, transmit the document to the " Procureur de la République " who is competent.

(f) No State fees of any nature whatever shall be charged in respect of the service. Nevertheless, the State making the request must repay to the State applied to any charges which are payable under the local law to the persons employed to effect service. These charges are calculated in accordance with the tariff in force in the State applied to. Repayment of these charges is claimed by the judicial authority applied to from the consular authority making the request when transmitting the certificate provided for in paragraph (d).

(g) The execution of a request for service can only be refused if the State in whose territory it is to be effected considers it such as to compromise its sovereignty or safety.

(h) Any difficulties which may arise in respect of the request shall be settled through the diplomatic channel.

*Article 4.*

The service of judicial or extra-judicial documents may also be made directly and without the application of any compulsion through the medium and under the responsibility of the consular authority of each of the High Contracting Powers in the territory of the other.

## COMMISSIONS ROGATOIRES.

*Article 5.*

Evidence which is required for use in one of the contracting countries is taken in the territory of the other, at the request of the party interested, in one of the ways indicated in Articles 6, 7 and (where applicable) 8.

## Article 6.

(a) The competent judicial authority of one of the parties addresses itself by means of a "commission rogatoire" to the competent judicial authority of the other State, requesting it to take the evidence of witnesses within its jurisdiction in legal form.

(b) The "commission rogatoire" is transmitted:

In England, by the Consul-General of France in London to the Senior Master of the Supreme Court of Judicature in England;

In France, by the British Consul to the "Procureur de la République" within whose jurisdiction the "commission rogatoire" is to be executed.

(c) The "commission rogatoire" is drawn up in the language of the authority making the request and accompanied by a translation in the language of the authority applied to.

(d) The judicial authority to whom the "commission rogatoire" is addressed executes it by the use of the same compulsory measures as would be applied in the case of a commission emanating from the authorities of the State applied to or of a request to that effect made by an interested party in the territory of that State.

(e) The authority making the request is, if it so desires, informed of the date and place where the proceedings asked for will take place, in order that the interested party may be able to be present either in person or by his representative.

(f) The execution of a "commission rogatoire" can only be refused:

1. If the authenticity of the document is not established;

2. If the State within whose territory the execution was to have taken place considers it such as to affect its sovereignty or safety.

(g) In case the authority applied to is without jurisdiction, the "commission rogatoire" is forwarded without any further request to the competent authority of the same State, in accordance with the rules laid down by the law of the latter.

(h) In every instance in which the "commission rogatoire" is not executed by the authority applied to, the latter at once informs the authority making the request, stating the grounds on which the execution of the "commission rogatoire" has been refused, and in the event of the authority being without jurisdiction, the authority to whom the commission has been forwarded.

(i) The judicial authority proceeding to the execution of a "commission rogatoire" applies, so far as the procedure to be followed is concerned, the law of its own country.

Nevertheless, an application by the authority making the request that some special procedure may be followed shall be acceded to, provided such procedure be not contrary to the law of the State applied to.

(j) No State fees of any nature shall be levied in respect of the execution of the "commission rogatoire."

Nevertheless, the State making the request repays to the State applied to the charges and expenses payable to witnesses or experts, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, and finally, the charges payable to any person whom the competent judicial authority may have deputed to act in cases where the local law permits this to be done.

The repayment of these expenses is claimed by the authority applied to from the authority making the request when transmitting to it the documents establishing the execution of the "commission rogatoire." These charges are calculated in accordance with the tariff in force in the State applied to.

(k) Any difficulties which may arise in respect of the transmission of the "commission rogatoire" are settled through the diplomatic channel.

*Article 7.*

(a) The evidence may also be taken without the intervention of the local authority by the consular authority of the country before whose courts the evidence is to be used.

(b) The consular authority may invite the attendance of witnesses and the production of documents and administer an oath, but without exercising any compulsory powers.

(c) The consular authority takes the evidence in accordance with laws of his own country. The parties have the right to be present or to be represented by any person who is competent to act before the tribunals of the consul's State.

*Article 8.*

(a) If the law of the country applied to authorises such procedure, the competent court of the State applied to may be requested to appoint a person to take the evidence. Such person may be a consular authority of the State making the request or any other person proposed by that State.

(b) In this case the court applied to takes the necessary steps to secure the attendance of witnesses and the production of documents, making use, if necessary, of its compulsory powers.

(c) The person thus nominated has the same power to administer an oath as a judge, and persons giving false evidence before him are liable in the courts of the State applied to to the penalties provided by the law of that State for perjury.

(d) The evidence is taken in accordance with the law of the country in which it is to be used, and the parties have the right to be present in person or represented by any persons who are competent to act before the courts of that State.

*Article 9.*

The fact that an attempt to take evidence under the procedure laid down in Article 7 has failed owing to a refusal of a witness to appear, give evidence or produce documents does not prevent an application being subsequently made to take the evidence in accordance with Article 8.

## FINAL PROVISIONS.

(a) The present Convention shall come into force two months after the date on which ratifications are exchanged and shall remain in force for three years after its coming into force. In case neither of the High Contracting Parties shall have given notice to the other six months before the expiration of the said period of its intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the High Contracting Parties shall have given such notice.

(b) This Convention shall not apply to any of the Dominions, Colonies, Possessions or Protectorates of the two High Contracting Parties, but either High Contracting Party may at any time extend, by a simple notification, this Convention to any such Dominion, Colony, Possession or Protectorate.

Such notification shall state the date on which the Convention shall come into force, the authorities to whom judicial and extra-judicial acts and " commissions rogatoires " are to be transmitted, and the language in which communications and translations are to be made.

Each of the High Contracting Parties may, at any time after the expiry of three years from the coming into force of the extension of this Convention to any of its Dominions, Colonies, Possessions or Protectorates, terminate such extension on giving six months' previous notice.

(c) This Convention shall also not apply to Scotland or Ireland ; but His Britannic Majesty shall have the right to extend the Convention to Scotland or Ireland on the conditions set forth in the preceding paragraph in respect of Dominions, Colonies, Possessions or Protectorates.

In witness whereof the Undersigned have signed the present Convention and have affixed thereto their seals.

Done in duplicate at London, the 2nd day of February, 1922.

(L.S.) CURZON OF KEDLESTON

(L.S.) SAINT-AULAIRE.