

N° 1502.

ALLEMAGNE ET BULGARIE

Traité relatif à l'assistance judiciaire.

Signé à Sofia, le 22 décembre 1926.

GERMANY AND BULGARIA

Treaty relating to Legal Assistance.

Signed at Sofia, December, 22
1926.

¹ TRANSLATION.

No. 1502. — TREATY BETWEEN GERMANY AND BULGARIA RELATING TO LEGAL ASSISTANCE. SIGNED AT SOFIA, DECEMBER 22, 1926.

BULGARIA and THE GERMAN REICH, being desirous of facilitating their mutual judicial relations, have concluded the Treaty which follows.

For this purpose they have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARS :

M. Athanase D. BOUROW, Minister for Foreign Affairs and Public Worship ;

THE PRESIDENT OF THE GERMAN REICH :

Dr. Eugen RÜMELIN, Envoy Extraordinary and Minister Plenipotentiary of the German Reich at Sofia ;

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

PART I.

SECURITY FOR JUDICIAL COSTS. LEGAL AID FOR THE POOR.

Article 1.

1. Nationals of one State appearing as plaintiffs or interveners before the courts of the other State shall not be required to give any surety or make any deposit under any denomination whatsoever by reason either of their being foreigners or of their not being domiciled or resident in the country.

2. The same applies to advances which plaintiffs or interveners might be required to make to cover the costs of the case.

Article 2.

1. Where an order to pay the costs of an action is made in the territory of one State against a plaintiff or intervener who is exempted from giving surety, making a deposit or paying advances in virtue of Article 1, or of a law in force in the State in which the action was brought, such order shall without charge be made executory in the territory of the other State, also by the competent authority. The application may be made either through the diplomatic channel or directly to the competent authority by the party to whom the costs are awarded.

2. The same rule shall apply to judicial decisions subsequently fixing the costs of the action.

3. Judicial decisions shall be understood to include decisions fixing the amount of costs, when given by Clerks of Court acting within the limits of their powers.

¹ Translated by the Secretariat of the League of Nations.

Article 3.

1. The decisions regarding costs referred to in Article 2 shall, without prejudice to the right of the losing party to appeal in accordance with the legislation of the State in whose territory the judgment is to be executed, be made executory without the parties being heard.

2. For this purpose it need only be ascertained :

(1) Whether, according to the laws of the country in which judgment was pronounced, the copy of the decision satisfies the conditions necessary to give it the force of proof.

(2) Whether in accordance with the said laws the decision has the force of *res judicata*.

(3) As proof that these conditions have been fulfilled, a certificate given by the President of the competent court of first instance (*Landgericht*), or, if the court giving the decision is a court of higher instance, by the President of that court, to the effect that the decision has the force of *res judicata*, shall be sufficient.

(4) The application shall be accompanied by a translation of the operative portion of the judgment and a translation of the certificate referred to in paragraph 3, in the official language of the State applied to.

These translations shall be legalised by the diplomatic or consular representative or a sworn translator of the applicant State or the State applied to.

Article 4.

Nationals of one State shall be granted free legal aid in the other State under the same conditions as nationals of the latter State.

Article 5.

1. The certificate of inadequate means must be made out by the authorities of the place in which the applicant's habitual residence is situated, or, failing such residence, by the authorities of the place in which he is resident for the time being.

2. Should the applicant not be resident in either of the two States, a certificate issued by the proper diplomatic or consular representative of the country to which the applicant belongs, shall be sufficient.

Article 6.

1. The authority competent to issue the certificate of inadequate means may make enquiries of the authorities of the other State with regard to the financial position of the applicant.

2. The authority appointed to deal with the application for free legal aid shall be entitled within the limits of its competence to verify the accuracy of the certificate and the information furnished.

3. When free legal aid has been granted to a national of one State by the competent authority, it shall continue to be granted in all judicial proceedings, including those connected with the execution of the judgment, which relate to the same section and are heard by the courts of the other State in virtue of Parts I and II of the present Treaty.

Article 7.

The highest judicial administrative authority of each State — in Bulgaria, the Ministry of Justice, and in the German Reich, the Ministry of Justice of the Reich — shall, on application through the diplomatic channel by the highest judicial administrative authority of the other State, furnish information concerning the law in force in the country in question.

PART II.

JUDICIAL ASSISTANCE IN CIVIL CASES.

Article 8.

1. In civil and commercial cases, applications for the service of documents on a person in the territory of the other State (applications for service) and requests by judicial authorities for judicial proceedings to be taken in the territory of the other State ("commissions rogatoires") shall be sent through the Consul of the applicant State to the President of the district court (*okroužnia soud*) in Bulgaria and to the President of the regional court (*Landgericht*) in the German Reich.

2. Documents resulting from the execution of applications for service and "commissions rogatoires" shall be transmitted to the Consul.

3. Where the authority applied to has no legal jurisdiction, the application for service or "commissions rogatoires" shall be transmitted without further formality to the competent authority, and the Consul shall at once be notified thereof.

Article 9.

1. Applications for service and "commissions rogatoires" shall be drawn up in the official language of the applicant State. They must be accompanied by a translation in the official language of the State applied to.

2. For applications for service and translations thereof, bilingual forms, to be communicated by each Government to the other, shall be used.

3. The translations to be attached to "commissions rogatoires" shall be legalised in accordance with Article 3, paragraph 4, second sentence.

4. Applications for service and "commissions rogatoires" must indicate the authority making application, and the names and civil status of the parties. Applications for service must also state the address of the recipient and the nature of the document to be served.

Article 10.

1. The competent authority of the State applied to shall be responsible for effecting service. Except in the cases specified in paragraph 2, such authority may limit its action to effecting service by the transmission of the document to the recipient, if he is willing to accept it.

2. If the document to be served is drawn up in the official language of the State applied to or accompanied by a translation in that language, the authority applied to shall, if the applicant authority so desires, serve the document in question in the manner prescribed by its municipal law for the service of similar documents, or in a special form which is not incompatible with such law.

3. With respect to the legalisation of translations, the provisions of Article 3, paragraph 4, second sentence, shall apply.

Article 11.

1. Proof of service shall be furnished either by a dated and legalised receipt from the recipient or by an attestation from the authority applied to certifying the fact, the manner and the time of service.

2. If the document to be served is transmitted in duplicate, the receipt or attestation should be given on one of the copies or attached thereto.

Article 12.

1. The judicial authority to which the request for judicial “commissions rogatoires” are addressed must give effect to them by the use of the same measures of coercion as in the execution of a request from the authorities of its own country or of an application made with the same object by an interested party. Measures of coercion need not be employed to secure the personal attendance of the parties to the action.

2. The applicant authority shall, if it so desires, be informed of the time when and the place where the proceedings will take place, in order that the interested party may be able to attend.

Article 13.

“Commissions rogatoires” shall be complied with in accordance with the procedure prescribed by the legislation of the State applied to. Nevertheless, the applicant authority may request that a special procedure be followed and such request shall be complied with if the procedure in question is not contrary to the legislation of the State applied to.

Article 14.

Applications for service and “commissions rogatoires” may only be refused if the State in whose territory effect is to be given to them considers them such as to endanger its sovereignty or safety.

Article 15.

Each of the two States shall be entitled to have documents served on its own nationals in the territory of the other State through its diplomatic and consular representatives, without the use of coercion.

The same applies to the execution of “commissions rogatoires”.

Article 16.

1. No fees or charges of any kind shall be payable in respect of the execution of applications for service and “commissions rogatoires”, with the exception of allowances to experts.

2. The authority applied to shall, however, inform the applicant authority of the amount of the expenditure incurred and not to be refunded by the applicant State under paragraph 1, in order that the applicant authority may recover such expenses from the person liable. Sums so recovered shall be retained by the applicant State.

PART III.

LEGALISATION OF DOCUMENTS.

Article 17.

1. Documents drawn up, issued, or legalised by a Bulgarian court of first instance or a German regional court (*Landgericht*) or a Bulgarian or German court of higher instance, or by one of the

higher or supreme Bulgarian or German administrative authorities, or by a supreme administrative court, and bearing the seal or stamp of the authority, shall not require legalisation in order to be used in the territory of the other State.

2. In order to be used in the territory of the other State, documents drawn up, issued, or legalised by one of the Bulgarian or German courts not mentioned in paragraph 1 or by an executive officer of the court or a land register office or a deposit office or a Bulgarian or German notary, shall only require legalisation by the competent President of the court of first instance (*Landgerichts-präsident*), and the affixing of the official seal or stamp. The same applies to documents drawn up, issued, or legalised by the Clerk of a Bulgarian or German court. In the case of the Clerk of a court of higher instance, legalisation by the President of that court shall be required.

PART IV.

FINAL PROVISIONS.

Article 18.

Difficulties which may arise in the application of the present Treaty shall be settled through the diplomatic channel.

Article 19.

1. The Bulgarian and German Governments shall inform each other of the territorial distribution of their courts of justice, the administrative courts referred to in Article 17, and the supreme administrative authorities, and of any changes therein.

2. The list of higher administrative authorities may only be supplemented by agreement between the two Governments.

Article 20.

The present Treaty shall remain in force even if Bulgaria should accede to The Hague Convention of July 17, 1905, concerning civil procedure.

Article 21.

The present Treaty shall come into force two months after the exchange of ratifications, and shall remain operative for five years.

Unless denounced by one of the Contracting Parties one year before the expiration of the five-year period, it shall remain in force until the expiration of one year after the date on which it is denounced by one of the Parties.

In faith whereof, the Plenipotentiaries have signed the present Treaty and have sealed it with their seals.

Done in duplicate at Sofia, December 22, 1926.

(L. S.) (*Signed*) A. D. BOUROW.

(L. S.) (*Signed*) Dr. E. RÜMELIN.