

N° 305.

ALLEMAGNE ET BELGIQUE

Convention relative à la transmission
des affaires judiciaires des cercles
d'Eupen et de Malmédy, signée
le 23 avril 1920.

GERMANY AND BELGIUM

Convention regarding the transfer of
judicial proceedings in the Dis-
tricts of Eupen and Malmédy,
signed April 23, 1920.

¹ TRADUCTION — TRANSLATION.No. 305. — CONVENTION² BETWEEN GERMANY AND BELGIUM REGARDING THE TRANSFER OF JUDICIAL PROCEEDINGS IN THE DISTRICTS OF EUPEN AND MALMÉDY, SIGNED APRIL 23, 1920.

French official text communicated by the German Consul at Geneva. The registration of this Convention took place August 12, 1922.

Article I.

CIVIL ACTIONS.

Paragraph 1.

Civil suits which were pending in the German courts at the time of the entry into force of the Treaty of Peace shall be decided entirely by the German Courts, even if the place which determined the competence of the latter is within the ceded territory. The Belgian courts shall take cognisance of appeals against the decisions of the local courts (tribunaux de bailliage) of Eupen, Malmédy and St. Vith unless the appeal was already lodged with the German courts at the time of the entry into force of the Treaty of Peace.

Paragraph 2.

For the purposes of paragraph 1 the expression "civil suits" shall be understood to mean all actions to which the German code of civil procedure and the bankruptcy law apply.

Paragraph 3.

Documents which may serve as a basis for an execution in matters relating to contention or voluntary jurisdiction and which were drawn up in Germany or in the ceded territories before the entry into force of the Treaty of Peace, shall be treated as executory documents in Germany and the ceded territories. The same rule shall apply to decisions which were given before the entry into force of the Treaty of Peace by courts in the German Empire or the ceded territories, and which, in the absence of any appeal or in consequence of the withdrawal of an appeal, have acquired or may acquire the force of final judgments after the entry into force of the Treaty of Peace.

Executory documents which have been, or may be, issued after the entry into force of the Treaty of Peace, by competent German courts in virtue of paragraphs 1 and 2 in suits originating in the ceded territories, shall also be treated as executory documents in the ceded territories.

The exequatur in the form prescribed in the ceded territories shall be given without examination of the substance of the matter.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Aix-la-Chapelle, Novembre 12, 1921.

Article 2.

CRIMINAL CASES.

Paragraph 1.

Criminal prosecutions brought against persons who at the time of the transfer of judicial proceedings are domiciled or failing such domicile, are habitually resident in the ceded territory, shall be transferred to the competent Belgian authority if the offence was committed in the ceded territory.

Paragraph 2.

If, in a case to be transferred under paragraph 1, a decision given before the transfer of judicial proceedings should be the subject of an appeal after that date, the appeal may also be made to the German Court, which shall transfer the case to the competent Belgian Court.

Paragraph 3.

The execution (1) of decisions which have acquired the force of final judgments before the transfer of judicial proceedings, and (2) of decisions which have acquired the force of final judgments after such transfer, either as a result of the expiration of the period in which appeal may be made or by the dismissal or withdrawal of the appeal, shall rest with the authority which has hitherto remained competent.

Paragraph 4.

In cases in which separate sentences passed by courts in the ceded territories and by courts still situated in Germany are combined in a single sentence, the execution of this sentence shall be the duty of that State which, in the aggregate of the separate sentences passed by its courts, is the more closely concerned in the execution of the whole. When the total of the separate sentences is the same on both sides, the execution shall fall to the State which shall first commence, or has already commenced to carry out the sentence.

Paragraph 5.

If a judgment coming under the present Convention cannot be executed in the competent country because the person convicted is resident in the other country, the last country in which such person resides shall undertake the execution of the sentence at the request of the competent country, if the offence for which he was condemned is punishable under that country's laws.

The authority by which the execution is to be carried out shall be named, if necessary, by the central judicial administration.

Paragraph 6.

In all cases the right of pardon shall belong to the State to which the execution of the sentence belongs.

The costs of executing a sentence shall in no case be refunded.

Paragraph 7.

The legal records relating to persons born in the ceded territory shall remain provisionally at the Court Public Prosecutors' Office at Aix-la-Chapelle. At the request of the Belgian authorities information relating to the contents of the records shall be delivered to them free of charge in each particular case.

Article 3.

VOLUNTARY JURISDICTION.

Paragraph 1.

Pending cases in matters of voluntary jurisdiction shall be decided by the Court before which they have been brought.

This provision shall also apply to the keeping of land registers (*Grundbücher*) and court registers (*gerichtliche Register*), and to the custody of wills, "conventions d'hérédité", and judicial records.

Paragraph 2.

The land registers (*Grundbücher*) shall be delivered to the competent court of the other State, so far as they apply to landed property situated in the other State.

Until such delivery, the court specified in paragraph 1 shall take cognisance of all applications.

The Prussian and Belgian judicial administrations shall agree upon the procedure to be adopted in cases in which only part of a volume of the land register is to be handed over to the court of the other State, or in which one page of the land register does not deal exclusively with landed property situated in the territory of only one of the two States.

Paragraph 3.

Matters relating to tutelage, guardianship and advice (*Beistandschaften*) shall be handed over to the competent court of the other State, if the ward is a subject of that State and is domiciled, or failing such domicile, is habitually resident therein.

Paragraph 4.

Wills and "conventions d'hérédité" shall, at the request of the testator, be handed over to be deposited in the court of the other State, if the testator is a subject of that State and is domiciled or, failing such domicile, is habitually resident therein.

Paragraph 5.

The handing over of documents, as provided for in paragraphs 2, 3 and 4, shall take place at a date to be fixed later by the Transfer Commission.

Paragraph 6.

Application for certified copies and extracts from judicial or notarial documents (including certificates of heirship) and of testamentary dispositions may be made, according to the law hitherto in force, to the authority or notary in possession of the original document.

This provision shall also apply to the issue of certificates of every kind.

Article 4.

FINAL PROVISIONS.

Paragraph 1.

Court records shall be handed over to the judicial authority which has to continue to deal with the matter under the foregoing provisions.

Records on file shall remain provisionally in the custody of the judicial authority which is in possession of them at the time of the transfer of judicial proceedings.

If a case for which records have been kept is to be re-opened and continued by the authority of the other State in accordance with this Convention, or if that authority requires the records for any reason, such records shall be handed over in every case, and it shall not be necessary to state the reasons.

Paragraph 2.

The Belgian and German judicial authorities shall execute directly and free of charge as far as possible rogatory commissions addressed to them in connection with all cases coming under this Convention.

Paragraph 3.

In the judicial proceedings to be transferred, Germans shall be treated by the Belgian courts, and Belgians by the German courts, on the same footing as natives, in respect of exemption from costs of procedure, security for the costs of an action, and the obligation of paying costs in advance.

Paragraph 4.

In pending cases, which, under the provisions of this Convention, will be transferred to the court of the other State, the whole of the legal costs shall be collected by the latter. It shall not be necessary to refund to the State which transferred the case the costs which have accrued up to the time of the transfer.

Paragraph 5.

For the purposes of this Convention, the date of the transfer of judicial proceedings shall be the eighth day after the exchange of ratifications.

Paragraph 6.

The Prussian Judicial Administration, acting on behalf of the Empire, and the Belgian Judicial Administration shall have the right to agree upon other provisions in connection with the transfer of judicial proceedings, in order to ensure the execution of the present Convention, particularly as regards cases dealing with deposits.

(Signed) HALOT.

(Signed) REICHARTZ.

(Signed) v. DALWIGK.