

N° 4608.

ALLEMAGNE ET GRÈCE

Convention concernant l'entr'aide judiciaire en
matière civile et commerciale. Signée à
Athènes, le 11 mai 1938.

*Textes officiels allemand et grec communiqués par le délégué permanent de la
Grèce près la Société des Nations. L'enregistrement a eu lieu le 17 juillet
1939.*

GERMANY AND GREECE

Convention regarding Reciprocal Judicial Assis-
tance in Civil and Commercial Matters.
Signed at Athens, May 11th, 1938.

*German and Greek official texts communicated by the Permanent Delegate of
Greece to the League of Nations. The registration took place July 17th,
1939.*

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 4608. — ABKOMMEN ¹ ZWISCHEN DEM DEUTSCHEN REICH UND DEM KÖNIGREICH GRIECHENLAND ÜBER DIE GEGENSEITIGE RECHTSHILFE IN ANGELEGENHEITEN DES BÜRGERLICHEN UND HANDELS RECHTS. GEZEICHNET IN ATHEN, AM 11. MAI 1938.

DAS KÖNIGREICH GRIECHENLAND und DAS DEUTSCHE REICH, von dem Wunsche geleitet, in Zivil- und Handelsangelegenheiten den Rechtsschutz der Angehörigen des Deutschen Reichs in Griechenland und der Angehörigen des Königreichs Griechenland in Deutschland sowie die Verpflichtung der Gerichtsbehörden beider Länder zu gegenseitiger Rechtshilfe zu regeln, sind übereingekommen, zu diesem Zweck einen Vertrag abzuschliessen, und haben zu ihren Bevollmächtigten ernannt :

SEINE MAJESTÄT DER KÖNIG DER HELLENEN :

Seine Exzellenz Andreas DELMOUZOS, Generaldirektor im Ministerium des Äussern, Ausserordentlicher Gesandter und Bevollmächtigter Minister ;

DER DEUTSCHE REICHSKANZLER :

Herrn Viktor Prinz zu ERBACH-SCHÖNBERG, Ausserordentlicher Gesandter und Bevollmächtigter Minister.

Die Bevollmächtigten haben sich, nachdem sie einander ihre Vollmachten mitgeteilt und diese in guter und gehöriger Form befunden haben, über folgende Bestimmungen geeinigt :

I. MITTEILUNG GERICHTLICHER UND AUSSERGERICHTLICHER URKUNDEN.

Artikel 1.

(1) In Zivil- und Handelssachen erfolgt die Zustellung von Schriftstücken, die für eine im Gebiet des anderen Staates befindliche Person bestimmt sind, auf einen Antrag, der von dem Konsul des ersuchenden Staates im Deutschen Reich dem Präsidenten des Landgerichts, in Griechenland dem Staatsanwalt bei dem Gerichtshof erster Instanz übermittelt wird, in dessen Bezirk die Zustellung erfolgen soll. Der Antrag hat die Behörde, von der er ausgeht, den Namen und die Stellung der Parteien, die Anschrift des Empfängers und die Art des zuzustellenden Schriftstücks zu bezeichnen. Der Antrag ist in der amtlichen Sprache des ersuchenden Staates abzufassen. Eine Übersetzung des Antrags in die Sprache des ersuchten Staates ist beizufügen ; dabei sind die von den beiden Regierungen einander mitzuteilenden doppelsprachigen Vordrucke zu benutzen.

(2) Die Urkunde, durch die die Zustellung nachgewiesen wird, ist dem Konsul zu übersenden ; gegebenenfalls ist ihm der die Zustellung hindernde Umstand mitzuteilen.

Artikel 2.

Für die Zustellung hat die zuständige Behörde des ersuchten Staates Sorge zu tragen. Diese Behörde kann sich, abgesehen von den im Artikel 3 vorgesehenen Fällen, darauf beschränken, die Zustellung durch Übergabe des Schriftstücks an den Empfänger zu bewirken, sofern er zur Annahme bereit ist.

¹ The exchange of ratifications took place at Berlin, May 17th, 1939.

VII. GEBÜHREN UND AUSLAGEN.

Artikel 25.

(1) Für die Zustellung von Schriftstücken und die Erledigung von Rechtshilfeersuchen kann weder eine Gebühr noch die Erstattung irgendwelcher Auslagen verlangt werden. Dies gilt jedoch nicht für die nach den Gesetzen des ersuchten Staates an Zeugen oder Sachverständige gezahlten Entschädigungen sowie für Kosten, die durch das ausdrückliche Ersuchen in einer besonderen Form zu verfahren, verursacht sind. Diese Kosten sind unverzüglich durch den ersuchenden Staat zu erstatten ohne Rücksicht darauf, ob er sie von den beteiligten Parteien zurückerhält oder nicht.

(2) Die Erledigung eines Zustellungsantrages oder eines Rechtshilfeersuchens darf nicht deshalb verweigert werden, weil die ersuchende Behörde keinen Vorschuss zur Deckung der Auslagen hinterlegt hat, die nach den Bestimmungen des vorstehenden Absatzes zu erstatten sind.

(3) Portokosten trägt die absendende Behörde.

VIII. SCHLUSSBESTIMMUNGEN.

Artikel 26.

Schwierigkeiten, die etwa bei Ausführung des Abkommens entstehen, werden im diplomatischen Wege geregelt.

Artikel 27.

Die deutsche und die griechische Regierung werden sich die örtliche Gliederung ihrer Gerichte und die obersten Verwaltungsbehörden und Verwaltungsgerichte sowie deren Änderungen mitteilen.

Artikel 28.

Dieses Abkommen soll auch für den Fall in Wirksamkeit bleiben, dass Griechenland dem Haager Abkommen¹ über den Zivilprozess vom 17. Juli 1905 beitrifft.

Artikel 29.

(1) Dieses Abkommen ist in deutscher und griechischer Sprache abgefasst. Beide Fassungen sind massgebend.

(2) Das Abkommen soll ratifiziert werden. Der Austausch der Ratifikationsurkunden soll sobald als möglich in Berlin erfolgen.

(3) Das Abkommen tritt zwei Monate nach Austausch der Ratifikationsurkunden in Kraft und gilt für die Dauer von fünf Jahren.

(4) Wird das Abkommen von keinem der beiden Vertragsteile ein Jahr vor Ablauf des fünfjährigen Zeitraumes gekündigt, so bleibt es in Geltung bis zum Ablauf eines Jahres von dem Tage an, an dem es von einem der beiden Staaten gekündigt wird.

Geschehen zu Athen in doppelter Urschrift, in griechischer und in deutscher Sprache, am 11. Mai 1938.

A. DELMOUZO.

Viktor Prinz zu ERBACH.

Pour copie conforme :

*ϕ. Le Directeur
des Affaires conventionnelles et commerciales
au Ministère des Affaires étrangères,*

B. Demertzis.

¹ *British and Foreign State Papers*, Vol. 99, page 990.

TRANSLATION.

No. 4608. — CONVENTION BETWEEN THE GERMAN REICH AND THE KINGDOM OF GREECE REGARDING RECIPROCAL JUDICIAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT ATHENS, MAY 11TH, 1938.

THE KINGDOM OF GREECE and THE GERMAN REICH, desirous of regulating the legal protection in civil and commercial matters of nationals of the German Reich in Greece and of nationals of the Kingdom of Greece in Germany, as also the obligation of the judicial authorities of both countries to furnish legal assistance, have resolved to conclude a Convention for the purpose and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE HELLENES :

His Excellency Monsieur Andreas DELMOUZOS, Director-General at the Ministry of Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary ;

THE CHANCELLOR OF THE GERMAN REICH :

Prince Viktor zu ERBACH-SCHÖNBERG, Envoy Extraordinary and Minister Plenipotentiary ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

I. SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

Article 1.

(1) In civil and commercial matters, the service of documents intended for persons residing in the territory of the other State shall be executed on a request transmitted by the consul of the applicant State, in the German Reich to the President of the *Landgericht* and in Greece to the Public Prosecutor attached to the court of first instance within whose jurisdiction the service is to be executed. The request shall specify the authority from whom the document emanates, the names and descriptions of the parties, the address of the recipient and the nature of the document to be served. It shall be drawn up in the official language of the applicant State and be accompanied by a translation into the language of the State applied to ; requests should be made on the bilingual forms to be communicated to one another by the two Governments.

(2) The document proving that service has been executed shall be transmitted to the consul, who shall similarly be informed, where necessary, of any circumstance hindering such service.

Article 2.

Service shall be executed by the competent authority of the State applied to. Save in the cases provided for in Article 3, it shall be sufficient for such authority to serve the document by delivering it to the recipient, if the latter is willing to accept it.

Article 3.

(1) If the document to be served is drawn up in the language of the State applied to or accompanied by a translation into that language, the authority applied to shall, if a wish to that effect is expressed in the request, serve the document in the manner prescribed by municipal law for the

service of similar documents, or in a special form, provided the latter is not incompatible with such law. Should no such wish be expressed, the authority applied to shall, in the first place, endeavour to execute the service in accordance with the provisions of Article 2.

(2) The translation for which the foregoing paragraph provides shall be certified correct by the diplomatic or consular representative, or by a sworn translator of the applicant State or the State applied to.

Article 4.

The execution of the service referred to in Articles 1, 2 and 3 may not be refused unless the State applied to considers it such as to compromise its sovereignty or security.

Article 5.

(1) Proof of service shall be furnished either by a dated and duly certified acknowledgment of receipt by the addressee or by an attestation of the authority of the State applied to, stating the fact, manner and date of service.

(2) If a document to be served is transmitted in duplicate, the acknowledgment of receipt or attestation shall be endorsed on one of the duplicates or attached thereto.

Article 6.

Either State shall be entitled to have documents served by its diplomatic or consular representatives on its own nationals within the territory of the other State without resort to compulsion.

II. LETTERS OF REQUEST.

Article 7.

In civil and commercial matters, the judicial authority of either State may apply, in conformity with the provisions of its legislation, by letters of request to the competent authority of the other State to initiate legal proceedings or other judicial acts within its jurisdiction.

Article 8.

(1) Letters of request shall be transmitted by the consul of the applicant State, in the German Reich to the President of the *Landgericht* and in Greece to the Public Prosecutor attached to the court of first instance within whose jurisdiction the proceedings are to be taken.

(2) The document notifying compliance with the letters of request or circumstances preventing such compliance shall be sent to the consul.

Article 9.

Letters of request shall be drawn up in the official language of the applicant State and accompanied by a translation, certified correct in conformity with Article 3, paragraph 2, into the official language of the State applied to.

Article 10.

(1) The judicial authority to whom letters of request are addressed shall be bound to give effect thereto and to resort to the same compulsory measures as are employed in the execution of letters of request from the authorities of the State applied to or of an application from a party concerned made for a similar purpose. Measures of compulsion need not be employed where the parties to the dispute are to appear in person.

(2) The applicant authority shall, if he so requests, be informed of the date and place of the proceedings to be taken in execution of letters of request, in order that the party concerned may be able to attend.

(3) The execution of letters of request may not be refused unless the State in which they are to be executed considers them to be such as would compromise its sovereignty or security.

Article 11.

Should the authority to whom application is made possess no jurisdiction, the letters of request shall be forwarded in the ordinary course to the competent authority of the State applied to in accordance with the rules laid down by the law of the latter.

Article 12.

In every instance where the letters of request are not executed by the authority applied to, the latter shall at once inform the consul of the applicant State, stating, in the case of Article 10, the grounds on which the execution of the letters of request has been refused and, in the case of Article 11, indicating the authority to whom the letters are to be forwarded.

Article 13.

(1) Judicial authorities executing letters of request shall apply the law of their own country in respect of the forms concerned.

(2) Nevertheless, a request by the applicant authority for some special procedure shall be acceded to, provided such procedure is not incompatible with the law of the State applied to.

Article 14.

Either State shall be entitled to have requests for the taking of evidence from its own nationals within the territory of the other State executed by its diplomatic or consular representatives without resort to compulsion.

III. SECURITY FOR COSTS.

Article 15.

(1) Nationals of one State, who appear as plaintiffs or interveners before the courts of the other State, may not be required, on the ground of their being aliens or of not being domiciled or resident within the country, to give sureties or make deposits of any description.

(2) The same rule shall apply to the advance payments required of plaintiffs or interveners to defray judicial costs.

Article 16.

(1) Orders to pay judicial costs made in the territory of one State against a plaintiff or intervener who is exempted from giving sureties or making deposits or advance payments in virtue of Article 15 or in virtue of a law of the State in which the action is brought shall be made enforceable free of charge in the territory of the other State by the competent authority. The request may be made through the diplomatic channel, or direct by the party to whom costs have been allowed to the competent authority.

(2) The same rule shall apply to judicial decisions under which the costs of the case are to be fixed later.

(3) The expression "judicial decisions" shall be deemed to include decisions fixing the amount of costs given by court registry officials within the limits of their jurisdiction.

Article 17.

(1) The decisions regarding costs to which Article 16 relates shall be declared provisionally enforceable without the parties being heard, but subject to subsequent appeal by the party mulcted in the costs, in conformity with the law of the State in which the order is to be enforced.

(2) The sole considerations in this connection shall be :

1. Whether, under the laws of the country in which the verdict is given, the copy of the verdict is sufficiently authoritative ;

2. Whether, under the same law, the verdict is finally enforceable.

(3) In order to prove that these conditions have been complied with, it shall be sufficient in the German Reich to produce a certificate by the President of the competent *Landgericht* and in Greece a certificate by the President of the court of first instance or, if the court which gave the verdict is a court of higher instance, by the President of the latter, stating that the verdict is finally enforceable.

(4) The request shall be accompanied by translations of the mandatory part of the decision and of the certificate referred to in paragraph (3) into the official language of the State applied to. The translations shall be certified correct in accordance with Article 3, paragraph (2).

IV. FREE LEGAL AID.

Article 18.

Nationals of either State shall be entitled in the other State to free legal aid on the same condition as nationals of the latter.

Article 19.

(1) The certificate of indigence shall be issued by the authorities of the habitual place of residence of the applicant or, in default thereof, by the authorities of his place of residence for the time being.

(2) If the applicant does not reside in either State, a certificate issued by the competent diplomatic or consular officer of the State to which the applicant belongs shall be sufficient.

Article 20.

(1) The authority competent to issue the certificate of indigence may ask the authorities of the other State for information regarding the applicant's pecuniary situation.

(2) The authority competent to decide on an application for the grant of free legal aid shall be entitled, within the limits of his powers, to verify the certificates and information supplied and to require such further particulars as may be necessary to clarify the situation sufficiently.

Article 21.

Should a national of either State be granted free legal aid by the competent authority, he shall be entitled to such aid in all legal proceedings, including proceedings in execution, in connection with the same legal dispute before the courts of the other State on the basis of Parts I and II of the present Convention.

Article 22.

Should a national of either State reside outside the territory of the other State in which he proposes to apply for free legal aid, his application for such aid, together with the certificate of indigence and any other evidence which may assist a decision, may be transmitted through the respective consul of his own State to the authority of the other State competent to give the decision. The provisions of Part II of the present Convention shall apply *mutatis mutandis* to the transmission and further disposal of the application.

V. IMPRISONMENT FOR DEBT.

Article 23.

Nationals of one State may not be imprisoned for debt in connection with civil or commercial matters, whether in the way of execution or as a precautionary measure, by the other State, save where such imprisonment would be applicable equally to nationals of the latter. Circumstances of such a character as to justify release of nationals of the latter State so imprisoned shall be applicable equally to nationals of the former State in the like case, even where the circumstances consist of occurrences in another country.

VI. CERTIFICATION (LEGALISATION) OF DOCUMENTS.

Article 24.

(1) Documents accepted, made out or certified by a German *Landgericht* or a Greek court of first instance, a German or Greek higher court, a German or Greek supreme administrative authority, or a German or Greek supreme administrative tribunal, which have been officially sealed or stamped, shall not require to be certified or legalised in order to be used in the territory of the other State.

(2) In the case of documents received, drawn up or certified by a German or Greek court not referred to in paragraph (1), a court bailiff, a mortgage register department, a deposits office, or a German or Greek notary, it shall be sufficient, for the purpose of use in the territory of the other State, if they are certified (legalised) by the competent President of a *Landgericht* in the German Reich and by the President of a court of first instance in Greece, after being duly sealed or stamped. The same shall apply to documents received, drawn up or certified by the registrar (secretary of the court) of a German or Greek court. Should the latter be the secretary of a court of higher instance, the certificate shall be issued by the President of the court in question.

VII. FEES AND EXPENSES.

Article 25.

(1) No fee and no refund of any outlays incurred may be demanded for the service of documents or execution of letters of request. But this provision shall not apply to the remuneration paid to witnesses or experts under the law of the State applied to, or to expenses incurred in effecting service in a special manner expressly applied for. Such expenses shall be repaid immediately by the applicant State, irrespective of whether they are refunded by the parties concerned or not.

(2) Execution of an application for service or of letters of request may not be refused on the ground that the authority making the application has made no advance deposit to defray the expenses which are to be refunded under the provisions of the preceding paragraph.

(3) Postal charges shall be paid by the authority submitting the application.

VIII. FINAL PROVISIONS.

Article 26.

Any difficulties which may arise in connection with the execution of the Convention shall be settled through the diplomatic channel.

Article 27.

The German and Greek Governments shall inform one another of the territorial repartition of their courts and of their supreme administrative authorities and administrative tribunals, as well as of any changes made therein.

Article 28.

The present Convention shall remain in force even in the event of Greece acceding to the Hague Convention of July 17th, 1905, concerning Civil Procedure.

Article 29.

(1) The present Convention has been drawn up in German and Greek, both texts being equally authentic.

(2) The Convention shall be ratified. The instruments of ratification shall be exchanged as soon as possible in Berlin.

(3) The Convention shall come into force two months after the exchange of instruments of ratification and shall be valid for five years.

(4) Should the Convention not be denounced by either Contracting Party one year before the expiry of the five-year period, it shall remain in force until the expiry of one year from the date on which it is denounced by either State.

Done at Athens, in duplicate, in the Greek and German languages, this 11th day of May, 1938.

(Signed) A. DELMOUZOS.

(Signed) Viktor Prinz zu ERBACH.