

**No. 4815**

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**BELGIUM  
and  
FRANCE**

**Convention concerning reciprocal legal assistance in civil  
and commercial matters. Signed at Paris, on 1 March  
1956**

*Official text: French.*

*Registered by Belgium on 7 July 1959.*

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**BELGIQUE  
et  
FRANCE**

**Convention relative à l'aide mutuelle judiciaire en matière  
civile et commerciale. Signée à Paris, le 1<sup>er</sup> mars 1956**

*Texte officiel français.*

*Enregistrée par la Belgique le 7 juillet 1959.*

[TRANSLATION — TRADUCTION]

No. 4815. CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF BELGIUM AND THE FRENCH REPUBLIC CONCERNING RECIPROCAL LEGAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT PARIS, ON 1 MARCH 1956

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His Majesty the King of the Belgians and  
The President of the French Republic,

desiring, as regards relations between their two countries, to define more precisely the scope of, and the procedures for giving effect to, certain provisions of the Hague Convention of 17 July 1905<sup>2</sup> relating to civil procedure, to which Belgium and France are Parties, have decided to conclude a convention for that purpose and have appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

His Excellency Baron Guillaume, Ambassador of Belgium in Paris ;

The President of the French Republic :

His Excellency Mr. Massigli, Ambassador of France, Secretary-General of the Ministry of Foreign Affairs,

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

I

SERVICE OF WRITS AND EXTRA-JUDICIAL DOCUMENTS

*Article 1*

Writs and extra-judicial documents in civil and commercial matters which are drawn up in the one country and addressed to persons residing in the territory of the other country may be transmitted by the competent *Parquet* to the *Parquet* to whose jurisdiction the addressee is subject, or they may be sent by law officials direct to the addressee by registered post where such form of transmittal is provided for by the law of the country in which the document in question was drawn up.

<sup>1</sup> Came into force on 28 May 1959, one month after the exchange of the instruments of ratification, which took place at Brussels on 27 April 1959, in accordance with article 16. This Convention is not applicable to the Territories of the Belgian Congo and Ruanda-Urundi, in accordance with article 13.

<sup>2</sup> De Martens, *Nouveau Recueil général de Traités*, troisième série, tome II, p. 243 ; League of Nations, *Treaty Series*, Vol. L, p. 180 ; Vol. LIV, p. 434 ; Vol. XCII, p. 420, and Vol. C, p. 265 ; and United Nations, *Treaty Series*, Vol. 216, p. 432, and Vol. 293, p. 388.

*Article 2*

Where the authority to which a document has been sent is not the competent authority, the said authority shall of its own motion forward such document to the competent authority of the same State.

*Article 3*

The judicial authorities of the High Contracting Parties shall cause documents to be delivered and served in accordance with the provisions of articles 2, 3, 4 and 5 of the Hague Convention of 17 July 1905 relating to civil procedure.

If an addressee refuses to accept a document voluntarily, the authority applied to shall return the said document to the applicant authority forthwith and shall state the reason why service could not be effected.

*Article 4*

The provisions of the preceding articles shall be without prejudice to :

1. The right of the High Contracting Parties to cause writs and extra-judicial documents addressed to their own citizens to be served, directly and without the use of compulsion, by their respective consuls.

Where there is a conflict between the legislation of the two countries, the nationality of the addressee shall be determined by the law of the country in which service is to be effected.

2. The right of nationals of either High Contracting Party to have documents served directly through law officials of the other Party.

## II

## LETTERS ROGATORY

*Article 5*

Letters rogatory shall be transmitted direct by the Ministry of Justice of the applicant State to the Ministry of Justice of the State applied to. The said Ministries shall ensure that swift action is taken by the competent Belgian or French authorities on such requests for legal assistance.

*Article 6*

The foregoing provisions shall be without prejudice to the right of the High Contracting Parties to cause their diplomatic and consular agents to execute, directly and without the use of compulsion, letters rogatory requesting the interrogation of, or the production of documents by, their own nationals. Where there is a conflict

between the legislation of the two countries, the nationality of the person who is to be interrogated shall be determined by the law of the country in which the letter rogatory is to be executed.

All summonses shall specifically state that the proceeding does not involve the use of compulsion.

*Article 7*

The fact that an attempt to execute a letter rogatory in the manner provided for in article 6 has been unsuccessful by reason of a refusal to appear, to give evidence or to produce documents shall not preclude the subsequent submission of a request under the provisions of article 5.

*Article 8*

The authority applied to may refuse to execute a letter rogatory if the action requested is likely to be prejudicial to the maintenance of law and order (*ordre public*) in its country.

*Article 9*

Letters rogatory shall be drawn up in the French language or be accompanied by a translation in that language.

*Article 10*

The cost of compensation paid to witnesses shall be assumed by the State applied to.

Costs incurred by reason of the voluntary non-appearance of witnesses and the cost of experts' fees shall, however, be assumed by the applicant State.

III

SECURITY FOR COSTS AND PENALTIES BY FOREIGN PLAINTIFFS ("CAUTIO JUDICATUM SOLVI")

*Article 11*

Bodies corporate set up in either country in accordance with the laws of that country shall benefit in the territory of the other country from the provisions of articles 17, 18 and 19 of the Hague Convention of 17 July 1905 relating to civil procedure.

*Article 12*

Nationals of either High Contracting Party, being individuals or bodies corporate, shall be entitled in the territory of the other Party to require *cautio judicatum solvi* under the same conditions as that Party's nationals.

## IV

## FINAL PROVISIONS

*Article 13*

This Convention shall be applicable :

In the case of Belgium, to the metropolitan territory ;

In the case of the French Republic, to the metropolitan territory of France.

The application of the Convention may, by an exchange of notes between the two Governments, be extended to the other territories of the High Contracting Parties and to the territories which they represent at the international level, on condition that the Hague Convention of 17 July 1905 relating to civil procedure has previously entered into force in the said territories.

*Article 14*

Any disputes arising between the High Contracting Parties with respect to the interpretation or application of this Convention which cannot be settled by diplomatic negotiations shall, at the request of either Party, be submitted to a commission established for the purpose of resolving the dispute and composed of one representative of the Belgian Government, one representative of the French Government and a third member selected by common agreement from among the nationals of a third State.

If agreement on the selection of the third member is not reached within two months, either Party may request the President of the International Court of Justice to make the appointment.

The decision of the commission, which shall be adopted by majority vote of its members, shall be final and binding.

*Article 15*

This Convention shall replace the declaration between Belgium and France concerning the transmittal of writs and extra-judicial documents in civil and commercial matters, signed at Brussels on 2 October 1912. This Convention shall be without prejudice to the provisions of the Hague Convention of 17 July 1905, to which the two Contracting States are and remain Parties.

*Article 16*

This Convention shall be subject to ratification and shall enter into force one month after the exchange of the instruments of ratification, which shall take place as soon as possible at Brussels.

It shall remain in force until the expiry of a period of six months from the date on which either High Contracting Party gives notice of its desire to terminate the Convention.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE in Paris in duplicate on 1 March 1956.

For Belgium :  
(Signed) J. GUILLAUME

For France :  
(Signed) R. MASSIGLI