

No. 5257

**SWEDEN
and
FRANCE**

**Convention (with exchange of letters) concerning reciprocal
legal assistance in civil and commercial matters. Signed
at Paris, on 7 March 1956**

Official text: French.

Registered by Sweden on 22 July 1960.

**SUÈDE
et
FRANCE**

**Convention (avec échange de lettres) relative à l'aide
mutuelle judiciaire en matière civile et commerciale.
Signée à Paris, le 7 mars 1956**

Texte officiel français.

Enregistrée par la Suède le 22 juillet 1960.

[TRANSLATION — TRADUCTION]

No. 5257. CONVENTION¹ BETWEEN THE KINGDOM OF SWEDEN AND THE FRENCH REPUBLIC CONCERNING RECIPROCAL LEGAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT PARIS, ON 7 MARCH 1956

His Majesty the King of Sweden 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 1905² relating to civil procedure, to which Sweden and France are parties, have decided to conclude a convention for that purpose and have appointed as their plenipotentiaries :

His Majesty the King of Sweden :

His Excellency Mr. Westman, Ambassador of Sweden 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

The competent 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.

Article 2

If an addressee refuses to accept a document which is served on him in application of article 2 of The Hague Convention or if for any other reason it has not been possible to effect service, 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.

¹ Came into force on 25 May 1959, upon the exchange of the instruments of ratification at Stockholm, in accordance with article 12.

² 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.

Service shall be deemed to have been effected on the date on which the document is served or refused.

However, the service of a document drawn up in France shall be considered there as having been duly effected fifteen days after transmittal of the document by the French diplomatic or consular authority to the competent Swedish authorities unless before that date the document has been served or refused as provided in the preceding paragraph.

Article 3

The provisions of the preceding articles shall be without prejudice to the right of the High Contracting Parties :

1. 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. To have recourse to the procedures provided for in article 6, items 1 and 2, of The Hague Convention.

II

LETTERS ROGATORY

Article 4

The High Contracting Parties mutually recognize that each has the right 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 5

The fact that an attempt to execute a letter rogatory in the manner provided for in article 4 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 9 of The Hague Convention.

Article 6

Letters rogatory shall be accompanied by a translation in the language of the authority applied to. The translation shall be certified by a sworn translator

or a translator whose oath shall be taken in conformity with the laws of the applicant State.

Article 7

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 8

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.

Article 9

The bodies corporate referred to in the preceding article and individuals who are nationals of either High Contracting Party shall be entitled in the territory of the other Party to require *cautio judicatum solvi* under the same conditions as that Party's nationals.

FINAL PROVISIONS

Article 10

This Convention shall, in the case of the French Republic, apply only to the metropolitan territory of France.

The application of the Convention may, by an exchange of notes between the two Governments, be extended to non-metropolitan territories of the French Republic and to the territories which it represents 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 11

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.

The provisions of the present Convention relating to the application of The Hague Convention of 17 July 1905 shall apply *mutatis mutandis* to The Hague

Convention of 1 March 1954¹ as soon as it enters into force between the two High Contracting Parties.

Article 12

The present Convention shall be subject to ratification and shall enter into force upon the exchange of the instruments of ratification, which shall take place as soon as possible at Stockholm.

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 7 March 1956.

For Sweden :
K. I. WESTMAN
[L.S.]

For France :
R. MASSIGLI
[L.S.]

EXCHANGE OF LETTERS

I

FRENCH REPUBLIC
MINISTRY OF FOREIGN AFFAIRS

Paris, 7 March 1956

The Minister for Foreign Affairs
to His Excellency the Ambassador of Sweden
in Paris

Sir,

With reference to the exchange of views which took place between the French delegation and the Swedish delegation on questions concerning French public policy (*ordre public*) as affected by the Convention concerning reciprocal legal assistance in civil and commercial matters, signed on this date,² I have the honour to inform you, on behalf of the Government of the French Republic, that in the view of that Government anything contrary to French public policy, that is, anything contrary to the principles of French public law, to French statute law or to morality shall, for the purposes of article 4 and of article 11, item 3,

¹ United Nations, *Treaty Series*, Vol. 286, p. 265.

² See p. 173 of this volume.

of The Hague Convention of 17 July 1905 relating to civil procedure, be an attack against its sovereignty or security.

I have the honour to be, etc.

R. MASSIGLI

II

ROYAL SWEDISH EMBASSY

Paris, 7 March 1956

The Ambassador of Sweden
to the Minister for Foreign Affairs

Sir,

I have the honour to acknowledge receipt of the letter of today's date which you were kind enough to send me and which reads as follows :

[*See letter I*]

I have the honour to be, etc.

K. I. WESTMAN