

No. 9047

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**AUSTRIA  
and  
FRANCE**

**Convention supplementary to The Hague Convention of  
1 March 1954 relating to civil procedure. Signed at  
Vienna, on 15 July 1966**

*Official texts : German and French.*

*Registered by Austria on 3 April 1968.*

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**AUTRICHE  
et  
FRANCE**

**Convention additionnelle à la Convention de la Haye du  
1<sup>er</sup> mars 1954 relative à la procédure civile. Signée à  
Vienne, le 15 juillet 1966**

*Textes officiels allemand et français.*

*Enregistrée par l'Autriche le 3 avril 1968.*

[TRANSLATION — TRADUCTION]

No. 9047. CONVENTION <sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND THE FRENCH REPUBLIC SUPPLEMENTARY TO THE HAGUE CONVENTION OF 1 MARCH 1954 <sup>2</sup> RELATING TO CIVIL PROCEDURE. SIGNED AT VIENNA, ON 15 JULY 1966

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The Federal President of the Republic of Austria and the President of the French Republic, desiring, in relations between the two States, to simplify the application of The Hague Convention of 1 March 1954 relating to civil procedure and to ensure the legal protection of their nationals, have decided to conclude a Convention for this purpose and have appointed as their plenipotentiaries,

The Federal President of the Republic of Austria :

Mr. Lujo Tončić-Sorinj, Federal Minister for Foreign Affairs,

Mr. Hans Klecatsky, Federal Minister of Justice ;

The President of the French Republic :

Mr. Louis Roché, Ambassador Extraordinary and Plenipotentiary, who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

*Article 1*

(1) In civil and commercial matters, the nationals of one of the High Contracting Parties shall, in the territory of the other, have free and unrestricted access to the courts, whether as plaintiffs or defendants, questions relating to security for costs and penalties by foreign plaintiffs (*cautio judicatum solvi*) and free legal aid being governed by the provisions of The Hague Convention of 1 March 1954 relating to civil procedure and by the provisions of this Convention.

(2) The nationals of one of the High Contracting Parties shall be entitled, in the territory of the other, to the same legal protection with regard to their person and their property as that which is accorded to the nationals of the latter High Contracting Party.

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<sup>1</sup> Came into force on 13 August 1967, the sixtieth day following the exchange of the instruments of ratification which took place at Paris on 14 June 1967, in accordance with article 11 (2).

<sup>2</sup> United Nations, *Treaty Series*, Vol. 286, p. 265.

*Article 2*

(1) In civil and commercial matters, writs and extra-judicial documents to be served on persons in the territory of one of the High Contracting Parties shall be transmitted, in a single copy, by the Ministry of Justice of the State making the request to the Ministry of Justice of the State to which the request is addressed.

(2) A receipt or other confirmation of the service of such documents shall be addressed by the Ministry of Justice of the State to which the request is made, to the Ministry of Justice of the State making the request.

(3) For exchanging further information concerning the service of the documents referred to in paragraph (1), the authorities designated above shall likewise correspond with one another direct.

(4) Letters transmitting such documents, and any additional information provided in accordance with paragraph (3) by the State making the request, shall be drawn up in the language of the State to which the request is made or shall be accompanied by a translation in that language.

*Article 3*

(1) In civil and commercial matters, letters rogatory shall be executed in the two States by the judicial authorities; such letters and the certificates of execution issued in connexion with them shall be transmitted through the Ministries of Justice of the High Contracting Parties.

(2) For exchanging further information concerning the letters rogatory, the Ministries of Justice shall likewise correspond with one another direct.

(3) Letters transmitting letters rogatory, and any additional information provided in accordance with paragraph (2) by the State making the request shall be drawn up in the language of the State to which the request is made or shall be accompanied by a translation in that language.

*Article 4*

The service of writs and extra-judicial documents and the execution of letters rogatory may not be refused on the grounds that the courts of the State to which the request is made have exclusive competence to deal with the case.

*Article 5*

Costs incurred in connexion with the service of writs and extra-judicial documents and the execution of letters rogatory shall not be reimbursed. However, costs incurred in connexion with the service of a document through the intervention of law officers shall, unless the service of the document

relates to the case of a party who has been granted free legal aid, be reimbursable, as shall the fees paid to experts in connexion with letters rogatory.

#### Article 6

(1) Each of the High Contracting Parties shall accord, to the judicial persons which it considers to be nationals of the other State, the benefits provided for under article 1 of this Convention and article 17 of The Hague Convention of 1 March 1954.

(2) Paragraph (1) shall also apply to commercial companies which, while not having legal personality, have the right to appear as a party to judicial proceedings.

#### Article 7

A request for a declaration of the enforceability of a decision relating to the costs and expenses of a lawsuit, as provided for in article 18 of The Hague Convention of 1 March 1954, may be made directly by the party concerned to the competent judicial authority.

#### Article 8

In applying the provisions of the second and third paragraphs of article 19 of The Hague Convention of 1 March 1954,

(a) The following documents shall be produced :

1. If the judgement has been given in France, a document establishing that it has been served, a statement by the registrar certifying that there has been no application to reopen the judgement, if it has been given by default, and that there has been no appeal against it, and also a statement certifying that there has been no application for revision of the judgement, in cases where such an application would result in a stay of execution ;
2. If the judgement has been given in Austria, a statement issued by the court which pronounced judgement in the first instance and certifying that the judgement has acquired the force of *res judicata* ;

(b) The competence of the authorities issuing the document and statements mentioned in sub-paragraph (a) need not be certified by another authority ;

(c) The translation of the enacting terms of the judgement, and of the document and statements mentioned in sub-paragraph (a), into the language of the authority to which the request is made may be certified as accurate by a sworn translator of the State making the request or in the manner

provided for in article 19, second paragraph, sub-paragraph 3, of The Hague Convention of 1 March 1954.

### *Article 9*

Upon the entry into force of this Convention, the Declaration of 4 March 1925 <sup>1</sup> between Austria and France concerning the transmission of legal documents and the execution of rogatory commissions in civil and commercial matters and the Convention of 4 March 1925 <sup>2</sup> between Austria and France regarding legal protection and assistance shall cease to have effect.

### *Article 10*

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

(2) The High Contracting Parties reserve the right to extend the application of this Convention, by agreement between them and through an exchange of notes and on a date to be determined by them, to the overseas departments and territories of the French Republic or to one or more of them.

### *Article 11*

(1) This Convention shall be ratified, and the instruments of ratification shall be exchanged in Paris.

(2) It shall enter into force on the sixtieth day following the date of the exchange of the instruments of ratification.

### *Article 12*

(1) Either High Contracting Party may denounce this Convention by giving notice in writing to the other High Contracting Party. The denunciation shall take effect six months after the date of such notice.

(2) The denunciation may be limited to the departments and territories which were the subject of an exchange of notes as provided in article 10, paragraph (2).

### *Article 13*

Any disputes which may arise between the High Contracting Parties concerning the interpretation or application of this Convention shall be settled through the diplomatic channel.

<sup>1</sup> League of Nations, *Treaty Series*, Vol. XLIV, p. 205.

<sup>2</sup> League of Nations, *Treaty Series*, Vol. LXXV, p. 97.

IN WITNESS WHEREOF the plenipotentiaries have affixed their signatures to the present Convention.

DONE at Vienna, on 15 July 1966, in duplicate in the French and German languages, both texts being equally authentic.

For the Federal President of the Republic of Austria :

Dr. Lujó Tončić-Sorinj

H. KLECATSKY

For the President of the French Republic :

Louis ROCHÉ