

**No. 10354**

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**AUSTRIA  
and  
SWITZERLAND**

**Agreement supplementing the Hague Convention of 1 March 1954  
relating to civil procedure (relating to the law on civil procedure).  
Signed at Vienna on 26 August 1968**

*Authentic text: German.*

*Registered by Austria on 12 March 1970.*

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**AUTRICHE  
et  
SUISSE**

**Accord conclu en vue de compléter la Convention de La Haye du  
1<sup>er</sup> mars 1954 relative à la procédure civile (concernant la  
procédure en droit civil). Signé à Vienne le 26 août 1968**

*Texte authentique : allemand.*

*Enregistré par l'Autriche le 12 mars 1970.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA  
AND THE SWISS CONFEDERATION SUPPLEMENTING  
THE HAGUE CONVENTION OF 1 MARCH 1954<sup>1</sup>  
RELATING TO CIVIL PROCEDURE (RELATING TO THE  
LAW ON CIVIL PROCEDURE)

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The Republic of Austria and  
The Swiss Confederation

Desiring to facilitate the provision of legal assistance in accordance with the Hague Convention of 1 March 1954<sup>2</sup> relating to civil procedure (relating to the law on civil procedure) — herein referred to as the Convention — have resolved to conclude an agreement. They have appointed as their Plenipotentiaries:

The Federal President of the Republic of Austria:

Mr. Kurt Waldheim, Minister for Foreign Affairs,

The Swiss Federal Council:

Mr. Alfred M. Escher, 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. The courts of the two States shall communicate with each other directly in civil and commercial matters for the reciprocal provision of legal assistance, including the serving of documents.

2. The Austrian Ministry of Justice and the Swiss Justice and Police Department shall, as soon as possible, transmit to each other lists of the

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<sup>1</sup> Came into force on 1 November 1969, the sixtieth day after the exchange of the instruments of ratification, which took place at Bern, in accordance with article 10.

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

courts to which application for legal assistance should be addressed and also any changes in the lists.

3. Documents may be served by mailing them direct to persons in the other State unless serving in a special manner, such as delivery to the recipient in person, is prescribed.

#### *Article 2*

Translations—except in the cases referred to in the second paragraph of article 3 of the Convention—shall not be necessary even where the official language of the applicant court and that of the court applied to are not the same.

#### *Article 3*

1. Transmission of two copies of the document to be served, as indicated in the first paragraph of article 3, shall not be mandatory.

2. Subpoenas in summonses served in the other State shall be regarded as non-acceptable. However, references may be made to the procedural consequences of delays.

#### *Article 4*

1. Proof of service shall not require authentication.

2. Authentication of the translations referred to in the third paragraph of article 3 of the Convention shall be deemed to be effected if their accuracy is certified by the applicant court or a translator officially contracted in the applicant State.

#### *Article 5*

Claims of exclusive jurisdiction by the State applied to in a civil or commercial case shall not constitute grounds for refusing service or a request for legal assistance.

#### *Article 6*

1. A witness or expert, of whatever nationality, who appears in response

to a summons before a court of the applicant State shall not be prosecuted or detained or suffer any other deprivation of his personal liberty in the territory of that State for actions or judgements predating his departure from the territory of the State applied to.

2. The protection provided for in the foregoing paragraph shall cease if, after the proceedings for which his presence before the court was requested, the witness or expert leaves the territory of the applicant State or if he remains there continuously even though, for a period of 15 consecutive days, there was no impediment to his free exit.

#### *Article 7*

1. The court applied to shall notify the applicant court of the nature and amount of any costs incurred. These shall be added to the costs of proceedings in the applicant State.

2. Fees or costs of whatever kind shall not give rise to reimbursement in the cases specified in the second paragraph of article 7 and the second paragraph of article 16 of the Convention, except for remuneration paid to a witness or expert up to a maximum of 600 shillings (100 francs).

#### *Article 8*

For the purposes of this Agreement, Swiss administrative authorities, and in particular debt collection and bankruptcy offices and inheritance and guardianship offices, shall, to the extent that they are competent in civil and commercial matters, be deemed to be equivalent to courts.

#### *Article 9*

On the entry into force of this Agreement, the Correspondence Agreement (the joint declaration by Switzerland and Austria concerning direct communication between the legal authorities of the two countries) on Legal Assistance in Civil and Commercial Matters of 30 December 1899 shall cease to have effect.

#### *Article 10*

1. This Agreement shall be subject to ratification. The exchange of the instruments of ratification shall take place at Berne as soon as possible.

2. This Agreement shall enter into force on the sixtieth day following the exchange of the instruments of ratification.

*Article 11*

Either of the two States may denounce this Agreement by written notification transmitted to the other State. Denunciation shall become effective one year after the date of such notification.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Agreement and thereto affixed their seals.

DONE at Vienna, on 26 August 1968, in two copies in the German language.

For the Republic of Austria:

WALDHEIM

For the Swiss Confederation:

ESCHER