

**No. 10708**

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**FRANCE**  
**and**  
**SPAIN**

**Convention concerning reciprocal legal assistance in criminal matters. Signed at Madrid on 9 April 1969**

*Authentic texts : French and Spanish.*

*Registered by France on 3 September 1970.*

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**FRANCE**  
**et**  
**ESPAGNE**

**Convention relative à l'entraide judiciaire en matière pénale.  
Signée à Madrid le 9 avril 1969**

*Textes authentiques : français et espagnol.*

*Enregistrée par la France le 3 septembre 1970.*

[TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE  
FRENCH REPUBLIC AND THE SPANISH GOVERN-  
MENT CONCERNING RECIPROCAL LEGAL ASSISTANCE  
IN CRIMINAL MATTERS

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The Government of the French Republic and the Government of the Spanish State, desiring to regulate legal assistance in criminal matters between the two States, have agreed on the following provisions :

*Article 1*

Letters rogatory in criminal matters shall be issued by the competent judicial authorities and transmitted direct by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

In urgent cases, letters rogatory may be transmitted direct by the competent judicial authorities of the requesting Party to the competent judicial authorities of the requested Party, the requesting authority being required to transmit a copy thereof through the channel specified in the preceding paragraph.

If the requested authority lacks competence in the matter, it shall of its own motion transmit the letters rogatory to the competent authority.

*Article 2*

Letters rogatory shall be executed in accordance with the law of the requested State.

*Article 3*

At its express request, the requesting State shall be informed in good time by the requested State of the date and place of execution of the letters rogatory so that interested authorities or parties may be present.

*Article 4*

After execution, letters rogatory shall in all cases be returned without delay to the Ministry of Justice of the requesting State by the Ministry of

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<sup>1</sup> Came into force on 1 August 1970, i.e., the first day of the second month following the date (23 June 1970) of the last of the notifications by each of the Contracting Parties to the other to the effect that the constitutional requirements had been fulfilled, in accordance with article 21.

Justice of the requested State together with the documents relating to their execution.

Where letters rogatory cannot be executed, the requested State shall immediately notify the requesting State accordingly, through the same channel, stating the reasons for non-execution and returning whatever documents have been sent to it.

#### *Article 5*

Judicial documents to be served on persons present in the territory of one of the Contracting Parties and judicial decisions to be notified to such persons, shall be transmitted to the Ministry of Justice of the requested State by the Ministry of Justice of the requesting State.

#### *Article 6*

Applications for service or notification shall contain the following particulars :

- The name of the authority which issued the document or rendered the decision;
- The nature of the document or decision;
- The legal classification of the offence;
- The name of the accused or convicted person;
- The name and address of the intended recipient of the document or notification.

#### *Article 7*

The requested State shall cause service or notification to be effected by simple delivery of the document or decision to the person named in it unless the requesting State expressly asks for service or notification to be effected in the form prescribed by the law of the requested State. Proof of service or notification shall consist either of a dated receipt signed by the person named or of a certificate by the requested authority confirming that service or notification had been effected and indicating the manner and date thereof; one or the other of these documents shall be transmitted forthwith to the Ministry of Justice of the requesting State by the Ministry of Justice of the requested State.

If it is not possible to effect service, the Ministry of Justice of the requested State shall return the document to the Ministry of Justice of the requesting State, indicating the circumstances which prevented service. If the person named refuses to accept service of the document, the requested State shall specify, in so far as possible, the circumstances of, and the reasons for, his refusal.

*Article 8*

Apart from expenses incurred for the services of experts or of officers of justice, where such services are requested by the requesting State, no refund of expenses shall be made in connexion with the services of judicial documents, the notification of judicial decisions or the execution of letters rogatory.

*Article 9*

If, in a criminal matter, the requesting State deems it necessary for a person present in the other State to appear before its judicial authorities as a witness or expert, it shall so indicate in the request for service of the summons which it transmits to the requested State.

The requested State shall invite the witness or expert to comply with the request made to him and shall inform the requesting State of his reply.

Where appropriate, travel and subsistence allowances shall be calculated from the place of residence of the witness or expert and shall be at least equal to those provided for under the scales and regulations in force in the State in which his appearance is required. At the request of the witness or expert, he may be advanced all or part of his travel expenses through the authorities of his place of residence, the cost thereof to be borne by the requesting State.

*Article 10*

If, in a criminal matter, one of the two States deems it necessary for a person held in custody in the other State to appear before its judicial authorities as a witness or for purposes of confrontation, an appropriate request shall be transmitted to the Ministry of Justice of the requested State by the Ministry of Justice of the requesting State.

The request shall be complied with, unless special reasons exist for not doing so, on the understanding that the person in custody is to be returned as soon as possible and with due regard for the provisions of article 11 of this Convention.

*Article 11*

No person of whatsoever nationality who, in response to a summons, appears before the judicial authorities of the requesting State as a witness or expert may be prosecuted, detained or subjected to any other restriction of his personal liberty in the said State by reason of an act committed or a conviction pronounced prior to his departure from the territory of the requested State.

*Article 12*

No person of whatsoever nationality who, in response to a summons, appears voluntarily before the judicial authorities of the requesting State to answer for acts which are the subject of proceedings against him shall be prosecuted, detained or subjected to any other restriction of his personal liberty in the said State by reason of an act committed or a conviction pronounced prior to his departure from the territory of the requested State and not specified in the summons.

*Article 13*

The immunity provided for in articles 11 and 12 above shall cease if the witness, expert or prosecuted person, having had the opportunity to leave the territory of the requesting State at any time during an uninterrupted period of thirty days after the date on which his presence ceases to be required by the judicial authorities, nevertheless fails to leave that territory during the said period, or having left it, returns thereto.

*Article 14*

The requested State shall not be bound to comply with a request for legal assistance if it considers that to do so might impair its sovereignty or security or the maintenance of law and order.

*Article 15*

The Contracting Parties shall report to each other all convictions, pronounced by the judicial authorities of either of them against nationals of the other, which are required to be entered in the judicial records in their respective territories.

Such reports shall be made even where the convicted person proves to be a national of both States.

The reports shall be transmitted through the Ministries of Justice of the two States.

*Article 16*

The Contracting Parties shall transmit to each other on request, in accordance with the law of the requested State, extracts from the judicial records.

Requests for extracts from the judicial records shall be transmitted through the Ministries of Justice of the two States. The reasons for such requests shall be specified.

*Article 17*

Letters rogatory and, in general, the various types of requests for legal assistance as well as the documents accompanying them shall be drawn up in the language of the requesting State without a translation in the language of the requested State. However, the requesting State may, if it sees fit, attach a translation.

*Article 18*

Articles 13, 14 and 15 of the Extradition Convention of 14 December 1877 are superseded by the corresponding provisions of this Convention.

*Article 19*

Any difficulties arising in connexion with the interpretation and application of this Convention shall be settled through the diplomatic channel.

*Article 20*

This Convention shall apply to the territory of the French Republic and to the territory of the Spanish State.

*Article 21*

Each Contracting Party shall notify the other of the completion of the constitutional procedures required in order to give effect to this Convention. The latter shall enter into force on the first day of the second month following the date of the second such notification.

This Convention is concluded for an indefinite period of time. Either Contracting Party may denounce it by giving one year's notice.

DONE at Madrid on 9 April 1969, in duplicate in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic :

R. DE BOISSESON

[SEAL]

For the Spanish Government :

Fernando CASTIELLA

[SEAL]