

**No. 11580**

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**GREECE  
and  
AUSTRIA**

**Treaty concerning legal assistance in the sphere of civil and commercial law. Signed at Athens on 6 December 1965**

*Authentic texts : Greek and German.*

*Registered by Greece on 8 February 1972.*

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**GRÈCE  
et  
AUTRICHE**

**Convention sur l'entraide judiciaire en matière civile et commerciale.  
Signée à Athènes le 6 décembre 1965**

*Textes authentiques : grec et allemand.*

*Enregistrée par la Grèce le 8 février 1972.*

[TRANSLATION — TRADUCTION]

TREATY<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA AND  
THE KINGDOM OF GREECE CONCERNING LEGAL  
ASSISTANCE IN THE SPHERE OF CIVIL AND COM-  
MERCIAL LAW

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COMMON PROVISIONS CONCERNING APPLICATIONS FOR THE SERVICE  
OF DOCUMENTS AND APPLICATIONS FOR LEGAL ASSISTANCE

*Article 1*

The High Contracting Parties shall provide each other with legal assistance in the sphere of civil and commercial law in both adversary and non-adversary proceedings in accordance with the provisions of this Treaty. The said provisions shall apply irrespective of the nationality of the persons on whom documents are to be served or who are to be interrogated pursuant to an application for legal assistance.

*Article 2*

1. Applications for the service of documents and applications for legal assistance shall be transmitted by correspondence between the Ministries of Justice of the High Contracting Parties. Either of the High Contracting Parties may, however, transmit such applications through the diplomatic channel.

2. Documents drawn up in execution of applications for the service of documents or applications for legal assistance shall be transmitted to the applicant State by the same means as were employed in transmitting the applications to the State applied to.

*Article 3*

If the authority applied to is not competent in the matter, it shall transmit the application for the service of documents or the application for legal assistance to the competent authority. It shall so inform the applicant authority in the manner prescribed in article 2.

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<sup>1</sup> Came into force on 13 January 1971, i.e. on the sixtieth day following the exchange of the instruments of ratification, which took place at Vienna on 13 November 1970, in accordance with article 24.

*Article 4*

1. Execution of an application for the service of documents or an application for legal assistance may be refused only if the State applied to considers that such execution is likely to be prejudicial to its sovereignty, security or public order.

2. The applicant State shall be informed of the refusal and the grounds therefor in the manner prescribed in article 2.

## SERVICE OF DOCUMENTS

*Article 5*

Applications for the service of judicial or extra-judicial documents must specify the authority which issued the document, the names and status of the parties, the address of the addressee and the nature of the document.

*Article 6*

1. If the document to be served is drawn up in the language of the State applied to or accompanied by a translation into that language, service shall be effected in accordance with the legal provisions of the State applied to governing the type of service in question.

2. If the document to be served is not drawn up in the language of the State applied to or accompanied by a translation into that language, the authority applied to may confine itself to effecting service by delivering the document to the addressee, provided that he is willing to accept it.

3. At the request of the applicant State, service may be effected in accordance with procedures other than those prescribed by the law of the State applied to, provided that such procedures are not contrary to the law of the State applied to.

4. The accuracy of the translation referred to in paragraph 1 must be certified by a diplomatic or consular representative of the applicant State or by a sworn translator of one of the Contracting Parties.

*Article 7*

1. Proof of service shall take the form either of a receipt properly dated and signed by the addressee or, where delivery to the addressee in person is not required, by another person to whom the document has been delivered and by the server or of a certificate issued by the authority applied to attesting to the fact, manner and date of service. The receipt or certificate must contain such information as is necessary in order to establish what document has been served.

2. If the document to be served or the translation thereof is transmitted in duplicate, acknowledgement of receipt or certification shall, at the request of the applicant State, be entered on the second copy or attached thereto.

#### *Article 8*

The applicant State shall not be required to reimburse costs incurred in executing applications for the service of documents.

#### *Article 9*

Either of the High Contracting Parties may serve judicial or extra-judicial documents on its own nationals residing in the territory of the other High Contracting Party through its diplomatic or consular representatives, who, however, may not apply measures of compulsion for this purpose.

### APPLICATIONS FOR LEGAL ASSISTANCE

#### *Article 10*

1. Applications for legal assistance must specify the authority which issued them and the names and status of the parties. Applications must also clearly indicate the judicial or other legal proceedings which are to be instituted pursuant to the application.

2. Applications for legal assistance must bear the seal of the authority which issued them; no further formalities shall be required.

#### *Article 11*

Applications for legal assistance and all attached documents must be accompanied by translations into the language of the State applied to. Such translations must satisfy the conditions laid down in article 6, paragraph 4.

#### *Article 12*

1. Applications for legal assistance shall be executed in accordance with the legal provisions of the State applied to governing judicial or other legal proceedings of the type in question.

2. At the request of the applicant authority, an application for legal assistance may be executed in accordance with procedures other than those prescribed by the law of the State applied to, provided that such procedures are not contrary to the law of the State applied to.

3. The authority applied to shall be required to proceed with the execution of the application for legal assistance as soon as possible.

4. The authority which issued the application for legal assistance shall upon request be informed in good time and in the manner prescribed in article 2, of the place and date of execution of the application so that the parties concerned may be present or represented when the said execution takes place.

### *Article 13*

The applicant State shall not be required to reimburse costs incurred in executing an application for legal assistance, apart from fees paid to experts.

### *Article 14*

The diplomatic or consular representatives of either of the High Contracting Parties may execute applications for legal assistance issued by the authorities of their State which relate to the interrogation of nationals of their State residing in the territory of the other High Contracting Party. If the law of their State so provides, diplomatic or consular representatives may also take sworn statements from nationals of their State. They may not, however, apply measures of compulsion for the purposes indicated.

## DEPOSIT OF SECURITY FOR LEGAL COSTS

### *Article 15*

1. Nationals of one of the High Contracting Parties having their domicile or habitual residence in the territory of either State who appear before the courts of the other High Contracting Party as plaintiffs or third parties shall not be required to deposit security for legal costs or to make any other deposit of whatsoever description on the ground that they are aliens or have no domicile or residence in the State of the court concerned.

2. The provisions of paragraph 1 shall also apply to juridical persons and companies established in accordance with the law of one of the High Contracting Parties and having their head office in the territory of either Party.

3. The plaintiffs or third parties referred to in this article shall receive the same treatment as nationals in respect of any other payment which may be required of them.

*Article 16*

1. Where a plaintiff or third party who is exempt from the deposit of security for legal costs and from any other deposit or by virtue either of article 15 of this Treaty or of the law of the State of the court concerned is ordered to pay legal costs, enforcement of the award of costs shall be authorized in the territory of the other State, provided that the award has become final and enforceable in the State in which it was made.

2. The provisions of paragraph 1 shall also apply to decisions retrospectively fixing the amount of legal costs.

*Article 17*

1. Application for enforcement of an award of costs pursuant to article 16 may be made to the competent authority of the other High Contracting Party either directly by the interested party or through one of the channels provided for in article 2.

2. The application must be accompanied by a copy of the operative part of the award of costs which fulfils the conditions required for its authenticity and bears the seal of the issuing authority and by a certificate to the effect that the award has become final and enforceable in the State in which it was made.

3. Where the application is submitted directly by the interested party, it must be drawn up in the language of the authority which is to deal with the matter; where it is transmitted through one of the channels provided for in article 2, it must be either drawn up in the language of the authority which is to deal with the matter or accompanied by a translation into that language. The copy and the certificate referred to in paragraph 2 must in all cases be accompanied by translations. The provisions of article 6, paragraph 4, shall apply to the said translations.

*Article 18*

1. Enforcement of an award of costs pursuant to article 16 shall be authorized free of charge, without hearing the opposing party. Such appeals as may be permissible under the law of the State of the authority dealing with the matter may not give rise to a substantive review of the decision whose enforcement is sought.

2. At the request of the applicant for authorization of enforcement, the competent authority shall require the opposing party to bear the costs of the translations required under article 17, paragraph 3.

## LEGAL AID

*Article 19*

Nationals of one of the High Contracting Parties appearing before the courts of the other High Contracting Party shall be entitled to legal aid under the same conditions as nationals of the latter Party.

*Article 20*

1. The certificate of indigence required for authorization of legal aid must be issued by the competent authority of the Contracting State in which the applicant has his habitual residence.

2. If the applicant does not have his habitual residence in the territory of either Contracting State, he shall be entitled to present a certificate of indigence issued either by the competent authority of his place of habitual residence or by the consular authority of the State of which he is a national.

*Article 21*

Application for authorization of legal aid before a court of the other Contracting State may be made through a consular authority of the High Contracting Party of which the applicant is a national.

*Article 22*

1. The authorities of the High Contracting Parties referred to in article 20 may request the competent authorities of the other High Contracting Party to provide any information concerning the property and income of the applicant.

2. The authority ruling on an application for authorization of legal aid may verify the accuracy of the particulars provided to it and request additional information. The competent authorities of the High Contracting Parties shall provide such information to one another upon request.

## FINAL PROVISIONS

*Article 23*

This Treaty shall not affect any obligations arising out of other treaties or agreements to which the two States are or may hereafter become parties and

which govern legal assistance in the sphere of civil and commercial law, including the deposit of security for legal costs and legal aid.

*Article 24*

1. This Treaty shall be ratified. The exchange of the instruments of ratification shall take place at Vienna as soon as possible.

2. The Treaty shall enter into force on the sixtieth day following the exchange of the instruments of ratification.

*Article 25*

Either of the High Contracting Parties may denounce this Treaty by giving written notice to that effect to the other High Contracting Party. The denunciation shall take effect one year after the date on which notice is given.

*Article 26*

Any dispute arising between the High Contracting Parties with regard to the interpretation or application of this Treaty shall be settled through the diplomatic channel.

DONE at Athens on 6 December 1965, in duplicate in the German and Greek languages, both texts being equally authentic.

For the Republic of Austria :

Dr. LUDWIG STEINER

For the Kingdom of Greece :

THEOCHARIS C. RENDIS