

No. 14223

**FRANCE
and
FEDERAL REPUBLIC OF GERMANY**

**Agreement on the competence of German courts for the
punishment of certain criminal offences (with exchange of
letters). Signed at Bonn on 2 February 1971**

Authentic texts: French and German.

Registered by France on 22 August 1975.

**FRANCE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Accord relatif à la compétence judiciaire allemande pour la
répression de certains crimes (avec échange de lettres). Signé
à Bonn le 2 février 1971**

Textes authentiques : français et allemand.

Enregistré par la France le 22 août 1975.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON THE COMPETENCE OF GERMAN COURTS FOR THE PUNISHMENT OF CERTAIN CRIMINAL OFFENCES

The Government of the French Republic and the Government of the Federal Republic of Germany,

Considering that, in accordance with part I, article 3, paragraph 3 (b), of the Convention of 26 May 1952² on the settlement of questions arising from war and occupation, as amended by the Protocol of 23 October 1954,³ German criminal courts are not competent in certain cases and that, as a result of the application of that provision, it has not always been possible for justice to take its course,

Considering also that, under the terms of article 3, paragraph 2, of the aforementioned Convention, the Contracting Parties may conclude a special agreement on the competence of German courts,

Have agreed as follows:

Article 1. German courts shall be competent in criminal proceedings relating to acts or omissions which were committed before the entry into force of the aforementioned Convention and for which prosecution is still possible under German law, if the accused has been sentenced *in absentia* by a French military court sitting in France or a French occupation court in Germany for the same act or omission and that sentence has not been superseded by a judgement rendered in an adversary proceeding.

Article 2. Where, pursuant to this Agreement, criminal proceedings in respect of acts or omissions committed in the territory of the Federal Republic of Germany have been terminated by a final judgement of a German court, the persons concerned shall not be liable in France to any further prosecution for the same acts or omissions.

Article 3. The courts and authorities of the two Contracting Parties shall render to each other all such assistance as is necessary for the implementation of this Agreement. The details of such assistance shall, so far as is requisite, be specified in an exchange of letters.

Article 4. Each Contracting Party shall notify the other of the completion of the formalities required under its Constitution for the entry into force of this Agreement. The Agreement shall enter into force on the date of the second such notification.

¹ Came into force on 15 April 1975, the date of the notifications by which the Parties informed each other of the completion of their required constitutional formalities, in accordance with article 4.

² United Nations, *Treaty Series*, vol. 332, p. 157.

³ *Ibid.*, vol. 331, p. 253.

DONE at Bonn on 2 February 1971, in duplicate in the French and German languages both texts being equally authentic.

For the Government of the French Republic:

[Signed]
JEAN SAUVAGNARGUES

For the Government of the Federal Republic of Germany:

[Signed]
PAUL FRANK

EXCHANGE OF LETTERS

I

THE AMBASSADOR OF FRANCE TO THE FEDERAL REPUBLIC OF GERMANY

Bonn-Bad Godesberg, 2 February 1971

Sir,

In accordance with article 3 of the Franco-German Agreement of today's date, I have the honour to specify to you the details of the assistance which the French and German authorities shall render to each other in implementation of the Agreement.

Requests for information concerning proceedings *in absentia*, as referred to in article 1, shall be transmitted through the diplomatic channel. Transmittal through the same channel of copies of documents, issued free of cost, shall constitute compliance with such requests.

If, owing to the complexity of the case or the volume of the judicial documents, such a procedure proves to be impractical, a German judge or State counsel shall be permitted to examine the documents *in situ* and to specify those of which the German authorities will require copies.

Where the German authorities have requested French assistance, they shall keep the French authorities informed of the outcome of the criminal proceedings, if such proceedings are instituted, or of their decision not to institute proceedings.

The same shall apply where the French Government has informed the Government of the Federal Republic of Germany of certain facts of which it may not have been aware.

If the Government of the Federal Republic of Germany agrees with the foregoing, this letter and your letter in reply shall constitute an agreement between our two Governments.

Accept, Sir, etc.

[Signed]
JEAN SAUVAGNARGUES

His Excellency Dr. Paul Frank
Secretary of State
Ministry of Foreign Affairs
Bonn

II

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS

Bonn, 2 February 1971

Sir,

I have the honour to acknowledge receipt of your note of today's date, the agreed German translation of which reads as follows:

[*See letter I*]

I have the honour to inform you that the Government of the Federal Republic of Germany agrees with the proposals contained in your note of today's date and further agrees that your note and this note in reply shall constitute an agreement between our two Governments, which shall enter into force together with the Agreement to which this note pertains.

Accept, Sir, etc.

[*Signed*]

PAUL FRANK

His Excellency Mr. Jean Sauvagnargues
Ambassador of the French Republic
53 Bonn-Bad Godesberg
