

No. 14497

**FRANCE
and
ROMANIA**

Convention concerning mutual legal assistance in civil and commercial matters. Signed at Paris on 5 November 1974

Authentic texts: French and Romanian.

Registered by France on 29 December 1975.

**FRANCE
et
ROUMANIE**

Convention relative à l'entraide judiciaire en matière civile et commerciale. Signée à Paris le 5 novembre 1974

Textes authentiques: français et roumain.

Enregistrée par la France le 29 décembre 1975.

[TRANSLATION—TRADUCTION]

CONVENTION¹ BETWEEN THE FRENCH REPUBLIC AND THE
SOCIALIST REPUBLIC OF ROMANIA CONCERNING MUTU-
AL LEGAL ASSISTANCE IN CIVIL AND COMMERCIAL
MATTERS

The President of the French Republic,

The President of the Socialist Republic of Romania,

Desiring to regulate mutual legal assistance between the French Republic and the Socialist Republic of Romania in the field of civil and commercial law and thus to promote the development of their friendly relations on the basis of the principles of respect for national sovereignty and independence, non-intervention in internal affairs and equality of rights and mutual benefits,

Have decided to conclude this Convention and have for that purpose appointed as their plenipotentiaries:

The President of the French Republic: Mr. Jean Sauvagnargues, Minister for Foreign Affairs;

The President of the Socialist Republic of Romania: Mr. George Macovescu, Minister for Foreign Affairs,

who, having exchanged their respective full powers, found in good and due form, have agreed as follows:

Chapter I. GENERAL PROVISIONS

Article 1. 1. Each of the two States shall guarantee, in its territory, to the nationals of the other State, legal protection of their personal or property rights and interests under the same conditions as in the case of their own nationals.

2. The nationals of each of the two States shall accordingly have free and unimpeded access to the judicial authorities, in the territory of the other State, under the same conditions as in the case of the nationals of that other State, for the pursuit and defence of their rights and interests.

Article 2. The provisions of this Convention concerning the nationals of one State shall also apply to bodies corporate which have their head office in the territory of that State and which are constituted in accordance with its laws.

Chapter II. PROVISIONS TO FACILITATE THE APPLICATION OF THE CONVENTION RELATING TO CIVIL PROCEDURE, CONCLUDED ON 1 MARCH 1954² AT THE HAGUE

Article 3. No security or deposit of any kind may be required of nationals of the other State, whether plaintiffs or third parties, by reason of their status as foreigners or of the absence of domicile or residence in the territory of the State to which the judicial authority applied to belongs.

Article 4. 1. Writs and extrajudicial documents in civil or commercial matters addressed to persons present in the territory of one of the two States shall

¹ Came into force on 1 September 1975, i.e., the first day of the second month following the date of the exchange of the instruments of ratification, which took place at Bucharest on 28 July 1975, in accordance with article 27 (1) and (2).

² United Nations, *Treaty Series*, vol. 286, p. 265.

be transmitted by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.

2. Receipts and attestations of delivery or of service shall be sent back to the Ministry of Justice of the requesting State.

3. The provisions of the foregoing paragraphs shall be without prejudice to the application of article 6 (first paragraph, subparagraphs 1 and 2) of the Convention relating to civil procedure, concluded on 1 March 1954 at The Hague, or of article 12 of the Consular Convention between the French Republic and the Socialist Republic of Romania, signed on 18 May 1968,¹ concerning the transmission of documents through the consular channel.

Article 5. 1. Writs and extrajudicial documents shall be transmitted in duplicate.

2. The request, which shall be drawn up in the languages of the two States, shall state the main particulars of the document, such as the requesting authority, the identity of the parties, the nature of the document and, where necessary, the date and place of appearance, the time-limits specified in the document, and the judicial authority rendering the decision, and contain any other relevant information.

Article 6. 1. The requested authority shall ensure that documents are served under the conditions prescribed by its laws. If the documents are not drawn up in the language of the requested authority or are not accompanied by a certified translation, such authority shall deliver the documents to the addressee if he agrees to accept them.

2. Receipts and the attestations of delivery shall be accompanied by a copy of the document delivered.

Article 7. 1. Letters rogatory in civil or commercial matters shall be transmitted through the Ministries of Justice of the two States and shall be executed by the judicial authorities.

2. They shall be accompanied by a translation in the language of the requested authority, certified as correct by a diplomatic or a consular agent, a sworn translator, or by any other person empowered to do so in one of the two States.

Article 8. Where the address of the intended recipient of the document or of the person of whom a hearing is requested is incomplete or incorrect, the requested authority shall nevertheless endeavour to comply with the request received. For that purpose the requested authority may ask the requesting State to provide any additional information needed to facilitate identification of the person concerned.

Chapter III. EVIDENTIAL VALUE OF DOCUMENTS AND EXEMPTION FROM AUTHENTICATION

Article 9. Notarial documents and documents which, by law, have the validity of authentic legal instruments, drawn up in the territory of one of the two States shall have the same evidential value in the territory of the other State as corresponding documents drawn up in the territory of that other State.

¹ United Nations, *Treaty Series*, vol. 747, p. 203.

Article 10. Documents issued by the judicial authorities or other competent authorities of one of the two States, as well as documents of which the date, signature or correspondence to the original has been authenticated by such authorities, shall not require certification for use in the territory of the other State.

Chapter IV. TRANSMITTAL OF RECORDS OF BIRTHS, MARRIAGES AND DEATHS

Article 11. The competent authorities of each of the two States shall transmit, free of charge, to the competent authorities of the other State, at their request and as appropriate, copies of or extracts from any French record of births, marriages and deaths, Romanian certificates of births, marriages and deaths, and copies of decisions concerning civil status, where such documents pertain to nationals of the requesting State and are requested for a duly specified administrative purpose.

Chapter V. RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS
AND AUTHENTIC LEGAL INSTRUMENTS

Article 12. 1. The provisions of this chapter shall apply to recognition and enforcement of decisions rendered by courts of the two States in civil or commercial cases.

2. They shall apply to decisions in criminal cases concerning compensation for damage and restitution of property.

3. These provisions shall also apply to authentic legal instruments drawn up in the territory of the two States.

Article 13. Arbitral awards rendered in the territory of one of the two States shall be recognized and enforced in the territory of the other State in accordance with the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958.¹

Article 14. For the purposes of the provisions of this chapter the term "decision" means any decision rendered in contentious or voluntary proceedings, irrespective of its designation and the court by which it is rendered, as well as any settlement arrived at in court in the course of judicial proceedings.

Article 15. Decisions rendered by a court of origin in one of the two States shall be recognized or declared enforceable in the territory of the other State:

- (a) if the court of origin had jurisdiction within the meaning of article 16 of this Convention;
- (b) if the decision is final in the State of origin.

Decisions which, in the case of France, are no longer subject to ordinary appeals or to appeals to the Court of Cassation and which, in the case of Romania, are no longer subject to ordinary appeals, are considered final decisions.

To be declared enforceable in the requested State, the decision must also be enforceable in the State of origin.

Article 16. The court of origin shall be considered to have jurisdiction under this Convention:

¹ United Nations, *Treaty Series*, vol. 330, p. 3.

- (a) if, on the date of the institution of proceedings, the defendant, or one of the defendants in the case of a joint action, was domiciled or habitually resident in the State of origin;
- (b) if, on the date of the institution of proceedings, the defendant had a commercial, industrial or other establishment or branch establishment in the State of origin or had been served with a summons in that State in an action relating to the operation of such establishment or branch establishment;
- (c) in the case of a dispute concerning status, capacity or family relations between nationals of the State in which the decisions was rendered;
- (d) if, in the case of a claim for damages, the tort was committed in the State of origin;
- (e) if the subject of the action is a dispute relating to immovable property situated in the State of origin;
- (f) if the defendant has expressly submitted to the jurisdiction of the court of origin, either by election of domicile or through some other agreement conferring jurisdiction, provided that the law of the requested State relating to such matters does not provide otherwise;
- (g) in any other case in which jurisdiction is determined according to the rules of international legal jurisdiction accepted under the law of the State in which the decision is invoked or by virtue of a convention in force between the two States.

The jurisdiction of the court of the State of origin provided for in this article may not be recognized in matters which, under the law of the requested State, come within the exclusive jurisdiction of its own courts.

Article 17. Recognition or enforcement shall be refused:

- (a) if the writ instituting proceedings was not served or delivered to the defaulting party in due form and in good time for that party to defend himself;
- (b) if an action between the same parties based on the same cause and having the same purpose:
 - 1. is pending before a court of the requested State, and was instituted prior to the proceedings in connexion with which recognition is sought, or
 - 2. has formed the subject of a decision rendered in the requested State;
- (c) if the court applied to is obliged to recognize the jurisdiction of arbitrators;
- (d) if the decision is contrary to the public policy of the requested State.

Article 18. Recognition or enforcement shall not be refused on the sole ground that the court of origin has applied a law other than that which would have been applicable under the rules of private international law of the requested State, except with regard to the status or capacity of persons or in cases where the rule of conflict is determined by a convention in force between the two States. Even in such cases, recognition or enforcement shall not be refused if the application of the law specified in those rules would have led to the same result.

Article 19. Except in so far as may be necessary for the application of the foregoing articles, the court applied to shall not undertake any examination of the merits of the decision rendered in the State of origin.

Article 20. 1. Recognition or enforcement of decisions shall be governed by the law of the requested State, save as otherwise provided in this Convention.

2. If the decision pertains to a number of items which may be dissociated, recognition or enforcement may be granted on a partial basis.

Article 21. 1. The Party claiming recognition or requesting enforcement shall produce:

- (a) a copy of the decision, duly certified;
- (b) a certified copy of the summons served on the defaulting party and any documentary evidence that the summons reached him in good time;
- (c) any documentary evidence that the decision fulfils the requirements specified in article 15 (b).

2. If the contents of the decision are not such as to enable the court applied to, to verify that the requirements specified in this chapter have been fulfilled, the court may request any other documents appropriate for the purpose.

3. The documents referred to in the foregoing paragraphs shall be accompanied by a translation certified by a diplomatic or consular agent, by a sworn translator or by any other person authorized for that purpose in either of the two States.

Article 22. Authentic legal instruments enforceable in the territory of one of the two States shall be declared enforceable in the territory of the other State by the court or tribunal competent under the law of the State in whose territory enforcement is requested.

The court or tribunal shall confine itself to determining whether such instruments have been duly authenticated in the territory of the State in which they were drawn up and whether the provisions whose enforcement is requested contain anything contrary to the public policy of the State in whose territory enforcement is requested.

Article 23. Expenses incurred for the certification and translation of documents required in recognition or enforcement proceedings shall be included in the legal costs of such proceedings.

Article 24. A party receiving free legal aid in the State of origin shall be entitled to such aid without further examination, within the limits allowed by the law of the requested State, in respect of any acts and proceedings instituted with a view to securing the recognition of the decision or making it enforceable as well as any enforcement acts and proceedings in the requested State.

Article 25. The provisions of this chapter shall not affect the provisions of conventions to which the two States are or may become parties and which govern the recognition and enforcement of decisions in special matters.

Chapter VI. EXCHANGE OF INFORMATION CONCERNING LEGISLATION

Article 26. The Ministries of Justice of the two States shall communicate to each other upon request information concerning laws currently or previously in force in the territory of the State to which they belong.

Chapter VII. FINAL PROVISIONS

Article 27. 1. This Convention shall be ratified. The exchange of instruments of ratification shall take place at Bucharest as soon as possible.

2. This Convention shall enter into force on the first day of the second month after the date of the exchange of instruments of ratification.

3. This Convention shall be concluded for an unlimited period.

Either of the two States may denounce it by giving written notice of denunciation to the other State, which shall take effect one year after the date of transmittal.

4. The provisions of chapter II of this Convention shall, however, apply as long as the Convention relating to civil procedure concluded at The Hague on 1 March 1954 remains in force between the two States.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE at Paris, on 5 November 1974, in two original copies, in the French and Romanian languages, both texts being equally authentic.

For the French Republic:

[*Signed*]

JEAN SAUVAGNARGUES

For the Socialist Republic of Romania:

[*Signed*]

GEORGE MACOVESCU
