

**No. 19215**

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
ROMANIA**

**Convention regarding legal proceedings in civil and commercial matters. Signed at London on 15 June 1978**

*Authentic texts: English and Romanian.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 6 November 1980.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
ROUMANIE**

**Convention relative aux actes de procédure en matières civile et commerciale. Signée à Londres le 15 juin 1978**

*Textes authentiques : anglais et roumain.*

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 6 novembre 1980.*

CONVENTION<sup>1</sup> BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SOCIALIST REPUBLIC OF ROMANIA REGARDING LEGAL PROCEEDINGS IN CIVIL AND COMMERCIAL MATTERS

The United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Romania;

Animated by the desire further to strengthen the ties of friendship between them on the basis of respect for national sovereignty and independence, of non-interference in internal affairs, of equal rights and of the promotion of their mutual advantage;

Desiring to render mutual assistance in the conduct of legal proceedings in civil and commercial matters;

Have agreed as follows:

PART I. DEFINITIONS AND SCOPE

*Article 1.* (1) This Convention applies only to civil and commercial matters, including non-contentious matters.

(2) For the purposes of this Convention the words:

- (a) "persons" shall mean individuals and juridical persons;
- (b) "juridical persons" shall be deemed to include partnerships, companies, societies and other corporations, which have their principal place of business in the territory of either of the Contracting Parties and which have been incorporated in conformity with its laws.

PART II. SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS

*Article 2.* (1) When judicial or extra-judicial documents drawn up in the territory of one of the Contracting Parties are required or authorised by a judicial authority situated therein to be served on persons in the territory of the other Contracting Party, such documents may be served on the recipient by any of the methods provided in Articles 3 and 4 of this Convention.

(2) In Part II of this Convention the expression "requesting Party" means the State from which the documents to be served emanate, and the expression "requested Party" means the State in which service of documents is to be effected.

*Article 3.* (1) A request for service shall be addressed and sent by a diplomatic agent or consular officer acting for the requesting Party to the competent authority of the requested Party, requesting such authority to cause the document in question to be served.

(2) The request for service shall be drawn up in a language acceptable to the requested Party and shall state the names and descriptions of the parties, the name,

<sup>1</sup> Came into force on 17 June 1979, i.e., one month after the date of the exchange of the instruments of ratification, which took place at Bucharest on 17 May 1979, in accordance with article 15.

(The United Kingdom also ratified the Convention in respect of the following territories for the international relations of which it is responsible: Antigua, St. Christopher-Nevis-Anguilla, the Bailiwick of Jersey, the Bailiwick of Guernsey, the Isle of Man, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands and Dependencies, Gibraltar, Hong Kong, Montserrat, Saint Helena and Dependencies, the Turks and Caicos Islands, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus. By the Exchange of notes of 17 June 1979, effected in accordance with article 5, it was agreed that the fee charged for service would be nil.)

description and address of the recipient, and the nature of the document to be served, and shall enclose the document to be served in duplicate.

(3) The document to be served shall either be drawn up in a language acceptable to the requested Party or be accompanied by a translation into such a language in duplicate. Such translation shall be certified as correct by a competent translator.

(4) For the purposes of this Convention:

- (a) The language acceptable in the United Kingdom of Great Britain and Northern Ireland shall be English;
- (b) The language acceptable in the Socialist Republic of Romania shall be Romanian.

(5) Requests for service shall be addressed and sent:

- (a) In England and Wales to the Senior Master of the Supreme Court of Judicature;
- (b) In Scotland to the Crown Agent, Edinburgh;
- (c) In Northern Ireland to the Supreme Court of Judicature for Northern Ireland, Belfast;
- (d) In the Socialist Republic of Romania to the Ministry of Justice, Bucharest;
- (e) In cases not provided for above through the diplomatic channel.

If the authority to whom a request for service has been sent is not competent to execute it, such authority shall, except in cases where execution is refused in accordance with paragraph (7) of this Article, of its own motion forward the request to the competent authority of the requested Party and inform the diplomatic agent or consular officer by whom the request was sent.

(6) Service shall be effected by the competent authority of the requested Party, who shall serve the document in the manner prescribed by its law for the service of similar documents, except that, if a wish for some special manner of service is expressed in the request for service, such manner of service shall be followed in so far as it is not incompatible with the law of that Party.

(7) The execution of a request for service, duly made in accordance with the provisions of this Article, shall not be refused unless:

- (a) The authenticity of the request for service is not established;
- (b) The fee has not been paid in accordance with Article 5 (1); or
- (c) The Contracting Party in whose territory it is to be executed considers that the sovereignty or security of the State would be prejudiced thereby.

(8) In every instance where a request for service is not executed by the authority to whom it has been sent, the latter shall as soon as possible inform the diplomatic agent or consular officer by whom the request was sent of the grounds for refusing the request.

(9) The authority by whom the request for service is executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and shall send the said certificate to the diplomatic agent or consular officer by whom the request for service was sent. The certificate shall be placed on one of the duplicates or attached thereto.

*Article 4.* (1) Service may be effected, without any request to or intervention of the authorities of the requested Party, by any of the following methods:

- (a) By a diplomatic agent or consular officer acting for the requesting Party on a national of the requesting Party who voluntarily accepts such service;
- (b) Through the post; or
- (c) By any other method of service which is in conformity with the law in force at the time of service, in the requested State.

(2) The documents served in the manner provided in sub-paragraphs (b) and (c) of paragraph (1) of this Article shall, unless the recipient is a national of the Contracting Party from whose territory the document to be served emanates, be accompanied by a translation into the language of the other Contracting Party certified as correct by a competent translator.

(3) The validity of any service effected by the use of any of the methods referred to in paragraph (1) of this Article shall be established by the respective courts of the Contracting Parties in accordance with their laws.

*Article 5.* (1) When a request is made for service in accordance with Article 3 of this Convention a fee shall be paid by the requesting Party to the requested Party. The appropriate fee shall accompany any such request for service. The fee charged by each Contracting Party shall be a sum agreed between the Parties when instruments of ratification of this Convention are exchanged, provided that the sum may subsequently be changed from time to time by mutual agreement. The sum agreed shall not exceed the average reasonable cost of service.

(2) In any case where documents have been served in some special manner at the request of one Contracting Party as provided in Article 3 (6) of this Convention, that Party shall repay to the other Contracting Party any charges and expenses which are incurred in effecting service in that special manner and which are not covered by the fee mentioned in paragraph (1) of this Article. Repayment of these charges and expenses shall be claimed by the competent authority by whom the service has been effected from the diplomatic agent or consular officer by whom the request was addressed, when sending to him the certificate provided for in paragraph (9) of Article 3.

(3) Except as provided in this Article, no fees of any description shall be payable by one Contracting Party to the other in respect of the service of any documents.

### PART III. TAKING OF EVIDENCE

*Article 6.* (1) When a judicial authority in the territory of one Contracting Party requires evidence to be taken in the territory of the other Contracting Party, such evidence may be taken, in any one of the ways prescribed in Articles 7 or 8.

(2) For the purposes of Part III of this Convention, the expressions:

- (a) "Taking of evidence" shall be deemed to include the taking of the statement of a plaintiff, (pursuer), defendant, (defender), expert or any other person on oath or otherwise;
- (b) "Witness" shall be deemed to include any person from whom any evidence is required to be taken;
- (c) "Oath" includes a solemn statement by which a person takes on the obligation to tell the truth.

*Article 7.* (1) The judicial authority of the requesting Party may, in accordance with the provisions of the law of that Party, address itself by means of a Letter of Request to the competent authority of the requested Party, requesting such authority to take the evidence.

(2) The Letter of Request shall be drawn up in the language of the requested Party or be accompanied by a translation into such a language. Such translation shall be certified as correct by a competent translator. The Letter of Request shall state the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto, the names of the parties thereto, and the names, descriptions and addresses of the witnesses. Also it shall either:

- (a) Be accompanied by a list of interrogatories to be put to the witness or witnesses, or, as the case may be, by a description of the documents, or other objects to be produced, identified or examined, and a translation thereof; or

(b) Request the competent authority to allow questions to be asked *viva voce* by the parties or their representatives.

(3) Letters of Request shall be transmitted by a diplomatic agent or consular officer:

- (a) In England and Wales to the Senior Master of the Supreme Court of Judicature;
- (b) In Scotland to the Crown Agent, Edinburgh;
- (c) In Northern Ireland to the Supreme Court of Judicature for Northern Ireland, Belfast;
- (d) In the Socialist Republic of Romania to the Ministry of Justice, Bucharest;
- (e) In cases not provided for above through the diplomatic channel.

If the authority to whom a Letter of Request has been transmitted is not competent to execute it, such authority shall, except in cases where execution is refused in accordance with paragraph (6) of this Article, of its own motion forward the Letter of Request to the competent authority of the requested Party and inform the diplomatic agent or consular officer by whom the request was sent.

(4) The competent authority of the requested Party shall give effect to the Letter of Request and obtain the evidence required by the use of the same procedure and, as the case may be, the same measures of compulsion as are employed in the execution of an order emanating from the authorities of its own country.

(5) The diplomatic agent or consular officer by whom the Letter of Request is transmitted shall, if he so requests, be informed of the date when and the place where the proceedings will take place, in order that he may inform the interested party or parties, who shall have the right to be present in person or to be represented, if they so desire, by barristers, advocates or solicitors, or by any representatives who are competent to appear before the courts of the requested Party.

(6) The execution of a Letter of Request which complies with the provisions of this Article can only be refused if:

- (a) The authenticity of the Letter of Request is not established;
- (b) In the State of execution, the execution of the Letter of Request does not fall within the functions of the judiciary;
- (c) The Contracting Party in whose territory it is to be executed considers that the sovereignty or security of the State would be prejudiced thereby.

(7) In every instance where a Letter of Request is not executed by the authority to whom it is addressed, the latter will at once inform the diplomatic agent or consular officer by whom it was transmitted, stating either the grounds on which the execution of the Letter of Request has been refused, or the competent authority to whom it has been forwarded.

(8) When a Letter of Request has been executed, the competent authority to whom it was transmitted or forwarded shall send to the diplomatic agent or consular officer by whom it was transmitted the documents establishing its execution.

*Article 8.* (1) The evidence may also be taken, without any request to or the intervention of the authorities of the receiving State, by a consular officer acting for the sending State from a national of his own State, without using measures of compulsion. He may take all kinds of evidence which are not contrary to the law of the receiving State, and shall have power to administer an oath.

(2) The evidence shall be taken in accordance with the procedure recognised by the law of the sending State.

*Article 9.* The fact that an attempt to take evidence by the method laid down in Article 8 of this Convention has failed owing to the refusal of any witness to appear or to give evidence does not preclude a request being subsequently made in accordance with Article 7 of this Convention.

*Article 10.* (1) Where evidence is taken in the manner provided in Article 7 of this Convention the Contracting Party by whose judicial authority the Letter of Request was addressed, shall repay to the other Contracting Party any expenses incurred by the competent authority of the latter in the execution of the request.

(2) Repayment of these expenses shall be claimed by the competent authority by whom the Letter of Request has been executed from the diplomatic agent or consular officer by whom it was transmitted, when sending to him the documents establishing its execution as provided in Article 7 (8).

(3) Except as provided in this Article, no fees of any description shall be payable by one Contracting Party to the other in respect of the taking of evidence.

#### PART IV. PROVISIONS RELATING TO EQUALITY OF TREATMENT IN JUDICIAL MATTERS

*Article 11.* The nationals of one Contracting Party shall enjoy in the territory of the other equality of legal protection of personal and property rights, and shall have as free access to the courts of justice for the prosecution or defence of their rights as nationals of the other Contracting Party.

*Article 12.* The nationals of one Contracting Party resident in the territory of the other shall not be compelled to give security for costs in any cases where a national of such other Contracting Party would not be so compelled.

*Article 13.* The nationals of one Contracting Party shall enjoy in the territory of the other Contracting Party a perfect equality of treatment with nationals of the latter Contracting Party as regards free or assisted legal aid.

#### PART V. GENERAL PROVISIONS

*Article 14.* Any dispute which may arise in connection with the operation of this Convention shall be settled through the diplomatic channel.

*Article 15.* This Convention shall be subject to ratification. Instruments of ratification shall be exchanged at Bucharest. The Convention shall come into force one month after the date on which the instruments of ratification are exchanged and shall remain in force for five years. If neither of the Contracting Parties shall have given notice to the other through the diplomatic channel not less than six months before the expiration of the said period of five years of intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the Contracting Parties shall have given notice to terminate it.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this present Convention.

DONE in duplicate at London this 15th day of June, 1978 in the English and Romanian languages, both texts being equally authoritative.

For the United Kingdom of Great Britain  
and Northern Ireland:  
DAVID OWEN

For the Socialist Republic of Romania:  
ST. A. ANDREI