

No. 20198

**FEDERAL REPUBLIC OF GERMANY
and
NORWAY**

**Agreement concerning further simplification of reciprocal
legal assistance under The Hague Convention relating
to civil procedure of 1 March 1954. Signed at Oslo on
17 June 1977**

Authentic texts: German and Norwegian.

Registered by the Federal Republic of Germany on 31 July 1981.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
NORVÈGE**

**Accord visant à simplifier davantage l'assistance juridique
régie par la Convention de La Haye du 1^{er} mars 1954 re-
lative à la procédure civile. Signé à Oslo le 17 juin 1977**

Textes authentiques : allemand et norvégien.

Enregistré par la République fédérale d'Allemagne le 31 juillet 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERAL
REPUBLIC OF GERMANY AND THE GOVERNMENT OF THE
KINGDOM OF NORWAY CONCERNING FURTHER SIMPLIFI-
CATION OF RECIPROCAL LEGAL ASSISTANCE UNDER THE
HAGUE CONVENTION RELATING TO CIVIL PROCEDURE OF
1 MARCH 1954²

The Government of the Federal Republic of Germany and the Government of the Kingdom of Norway,

Desiring to simplify the application of certain provisions concerning reciprocal legal assistance of The Hague Convention relating to civil procedure of 1 March 1954,²

Have, in accordance with the possibilities provided in the Convention, agreed as follows:

SERVICE OF WRITS AND EXTRA-JUDICIAL DOCUMENTS

Article 1. In civil or commercial matters, writs and extra-judicial documents emanating from one of the two States may also be transmitted direct, as follows:

1. If service is to be effected to persons in the Federal Republic of Germany, by the competent Norwegian legal authority to the President of the *Land* court or district court in whose district the addressee is residing;
2. If service is to be effected to persons in Norway, by the competent German legal authorities to the *herredsrett* or the *byrett* in whose area the addressee is residing.

Article 2. If the authority to which the document has been transmitted is not competent, it shall of its own motion transmit the document to the competent authority. It shall immediately inform the requesting authority accordingly, via the channel through which it received the request.

Article 3. (1) The request shall indicate whether service is to be effected through simple delivery of the document to the addressee (article 2 of The Hague Convention) or in the manner prescribed in the requested authority's domestic legislation or in a special manner (article 3, paragraph 2, of The Hague Convention). The desire for service to be effected in one of the ways specified in article 3, paragraph 2, of The Hague Convention may also be expressed solely in order not to facilitate matters in the event that simple delivery is not possible because the addressee is not willing to accept the document.

(2) If the requesting authority has not, as provided in article 3, paragraph 2, of The Hague Convention, expressed the desire that the document should be served in one of the ways specified in article 3, paragraph 2, of The Hague Convention, and if service cannot be effected by simple delivery in accordance with article 2 of The

¹ Came into force on 1 January 1980 by an exchange of notes confirming that the domestic legal requirements had been fulfilled, in accordance with article 17 (1).

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

Hague Convention, the requested authority shall immediately return the document to the requesting authority and shall inform it of the reasons why simple delivery was not possible. If, however, the document to be served is accompanied by a translation, service shall be effected in accordance with the requested authority's domestic legislation in the matter.

(3) If the requesting authority has exceptionally failed to attach a translation to its request according to paragraph 1 to serve a document in one of the ways specified in article 3, paragraph 2, of The Hague Convention, a translation shall be obtained by the requested authority. The translation costs shall be reimbursed by the requesting authority.

(4) The translation provided for in article 3, paragraph 2, of The Hague Convention may also be certified as accurate by a sworn translator of the requesting State.

(5) Neither State shall require from the other State the reimbursement of costs which may have arisen in cases covered by article 3, paragraph 2, of The Hague Convention as a result of the fact that a court official has participated in serving the document or that service has been effected in a special manner. However, the requested Norwegian authority shall inform the requesting German authority of the amount of such costs.

Article 4. (1) The diplomatic or consular agents of each of the two States may also effect service without duress (article 6, paragraph 1, subparagraph 3, in connection with article 2, second sentence, of The Hague Convention) if the addressee holds the nationality of a third State in addition to that of the sending State. If the nationality of the person to whom service is to be effected is determinable by different legislations, the law of the State in which the request for service is to be carried out shall prevail.

(2) In the relationship between the two States, the direct methods of service provided for in article 6, paragraph 1, subparagraphs 1 and 2, of The Hague Convention or direct service through diplomatic or consular agents to persons holding the nationality of the receiving State or of a third State shall not be permitted.

LETTERS ROGATORY

Article 5. In civil and commercial matters, letters rogatory may also be transmitted by direct communication between the respective authorities. Articles 1 and 2 shall apply *mutatis mutandis*.

Article 6. (1) If exceptionally a letter rogatory is not accompanied by a translation in the language of the requested State, it shall be obtained by the requested authority. The translation costs shall be reimbursed by the requesting authority.

(2) The translation provided for in article 10 of The Hague Convention may also be certified by a sworn translator of the requesting State.

Article 7. (1) Neither State shall require from the other State the reimbursement of costs arising in connection with the execution of a letter rogatory. Amounts paid to experts and interpreters shall, however, be reimbursed unless the expenses in question have arisen in connection with taking a blood specimen or with issuing a blood group certificate.

(2) The requested Norwegian authority shall inform the requesting German authority of expenses incurred by it even if, under paragraph 1, they are not to be reimbursed.

Article 8. Each of the States may have letters rogatory executed through its diplomatic or consular agents directly and without the use of coercive measures if the persons to be questioned or instructed to produce documents hold only the nationality of the sending State or hold that nationality in addition to that of a third State. If the nationality of the person to whom the request relates is determinable by different legislations, the law of the State in which the letter rogatory is to be executed shall prevail.

ENFORCEMENT OF DECISIONS RELATING TO COSTS

Article 9. (1) A request to have a decision relating to the costs of a lawsuit declared enforceable in accordance with articles 18 and 19 of The Hague Convention (to permit execution on the basis of a decision relating to the costs of the lawsuit) may also be made direct to the competent court with the person entitled to such costs.

(2) The same applies to a request to have a decision which subsequently determines the costs of the proceedings declared enforceable (to permit execution on the basis of a decision relating to the costs of the proceedings).

Article 10. (1) The requirements of article 19, paragraph 2, subparagraph 2, and paragraph 3 of The Hague Convention shall be met by having the decision accompanied by a certificate, drawn up by the competent court, that it has acquired the force of *res judicata*.

(2) Certification by a further authority as proof of the competence of the court issuing the document referred to in paragraph 1 above shall not be required.

Article 11. The translation provided for in article 19, paragraph 2, subparagraph 3, of The Hague Convention may also be certified by a sworn translator of the State in which the decision has been adopted.

FREE LEGAL AID

Article 12. (1) Requests for free legal aid made in accordance with article 23 of The Hague Convention may also be transmitted by direct communication between the respective authorities, as follows:

1. If free legal aid is to be sought in the Federal Republic of Germany, by the competent Norwegian legal authority to the President of the *Land* court or district court in whose district the request is to be dealt with;
2. If free legal aid is to be sought in Norway, by the competent German legal authorities to the Kgl. Justis- og Politidepartement in Oslo.

(2) The translation which must be attached in accordance with article 23, paragraph 2, in connection with article 10 of The Hague Convention may also be certified by a sworn translator of the State transmitting the request.

Article 13. The authority responsible for dealing with a request for free legal aid transmitted in accordance with article 12 may, if it wishes to obtain additional information concerning the income and financial situation of the applicant from the

competent authority (article 22, paragraph 2, of The Hague Convention), address itself directly to the authority of the other State which has transmitted the request in accordance with article 12 above.

FINAL PROVISIONS

Article 14. The foregoing agreements do not preclude requests for service of documents, letters rogatory or requests for free legal aid being transmitted in one of the ways provided for in The Hague Convention (article 1, paragraph 1; article 9, paragraph 1; article 23, paragraph 1).

Article 15. This Agreement shall also apply to *Land Berlin* unless a declaration to the contrary is made by the Government of the Federal Republic of Germany to the Government of the Kingdom of Norway within three months of the entry into force of the Agreement.

Article 16. Any differences regarding the interpretation or application of this Agreement shall be settled through the diplomatic channel.

Article 17. (1) The date on which this Agreement enters into force shall be agreed by an exchange of notes as soon as the requisite domestic conditions for its entry into force have been fulfilled.

(2) This Agreement may be denounced in writing at any time. The denunciation shall take effect six months after the date on which notice was given.

(3) Upon the entry into force of this Agreement, the Declaration by the German Empire and Norway concerning further simplification of reciprocal legal assistance of 2 August 1909 shall become null and void.

DONE at Oslo on 17 June 1977, in two original copies, each in the German and Norwegian languages, both texts being equally authentic.

For the Government of the Federal Republic of Germany:

Dr. VOGEL

Dr. WAND

For the Government of the Kingdom of Norway:

INGER LOUISE VALLE
