

No. 20346

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
GERMAN DEMOCRATIC REPUBLIC**

**Convention regarding legal proceedings in civil matters.
Signed at Berlin on 28 February 1980**

Authentic texts: English and German.

*Registered by the United Kingdom of Great Britain and Northern Ireland
on 13 August 1981.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Convention relative aux actes de procédures en matière
civile. Signée à Berlin le 28 février 1980**

Textes authentiques : anglais et allemand.

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du
Nord le 13 août 1981.*

CONVENTION¹ BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GERMAN DEMOCRATIC REPUBLIC REGARDING LEGAL PROCEEDINGS IN CIVIL MATTERS

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, and the Council of State of the German Democratic Republic;

Motivated by the desire to promote co-operation between the two States on the basis of the aims and principles reaffirmed in the Final Act of the Conference on Security and Co-operation in Europe² for relations between States;

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

Have decided to conclude a Convention for this purpose and to this end have appointed as their Plenipotentiaries:

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as “Her Britannic Majesty”):

For the United Kingdom of Great Britain and Northern Ireland: Peter Martin Foster Esq, CMG, Her Britannic Majesty’s Ambassador Extraordinary and Plenipotentiary

The Council of State of the German Democratic Republic:

For the German Democratic Republic: Herr Kurt Nier, Deputy Minister of Foreign Affairs

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows:

PART I. SCOPE AND DEFINITIONS

Article 1. (1) This Convention applies to civil matters.

(2) For the purpose of this Convention:

(a) “Civil matters” shall mean, in relation to the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as “the United Kingdom”), all civil and commercial matters; and in relation to the German Democratic Republic, all civil and family matters.

¹ Came into force on 21 February 1981, i.e., the thirtieth day after the exchange of the instruments of ratification, which took place at London on 22 January 1981, in accordance with article 19 (1).

² *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

(b) "Territory" shall mean, in relation to the United Kingdom, England and Wales, Scotland and Northern Ireland; and in relation to the German Democratic Republic, the German Democratic Republic.

(c) "Nationals" shall mean, in relation to the United Kingdom, all British subjects and British protected persons who are recognised by Her Britannic Majesty's Government in the United Kingdom as their nationals; and in relation to the German Democratic Republic, all persons who in accordance with the laws of the German Democratic Republic are citizens of the German Democratic Republic.

(3) Legal persons constituted or incorporated under the laws of the territory of either Contracting Party shall for the purpose of this Convention be treated as if they were its nationals.

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 High Contracting Parties are required or authorised by a judicial authority situated therein to be served on persons including legal persons in the territory of the other High Contracting Party, such documents may be served on the recipient by any of the methods set out in this Part of this Convention.

(2) In Part II of this Convention "requesting State" means the State from which the documents to be served emanate, and "requested State" means the State in whose territory the documents are to be served.

Article 3. (1) A request for service shall be addressed and sent by a diplomatic mission or consulate of the requesting State to the competent authority of the requested State requesting that the service be effected.

(2) The competent authority shall be:

(a) In the German Democratic Republic, the Ministry of Justice;

(b) In the United Kingdom,

— In England and Wales, the Senior Master of the Supreme Court of Judicature;

— In Scotland, the Crown Agent, Edinburgh;

— In Northern Ireland, the Supreme Court of Judicature of Northern Ireland, Belfast.

If the authority to which a request for service has been sent is not competent to execute it, such authority shall forward the request to the competent authority and inform the diplomatic mission or consulate by which the request was sent.

Article 4. (1) A request for service of documents shall be submitted in writing and shall contain the following particulars:

(a) The requesting authority,

(b) The name, address, description and, where known, the nationality of each of the parties,

(c) The name, address and description (for example sex, age, nationality and occupation, where known) of the recipient,

(d) The nature and number of the documents to be served.

The documents to be served shall be enclosed in duplicate. A request for service to the competent authority in the German Democratic Republic shall be drawn up in the German language. A request for service to a competent authority in the United Kingdom shall be drawn up in the English language.

(2) The documents which are to be served in the territory of the German Democratic Republic shall be drawn up in the German language or be accompanied by a translation into that language. The documents which are to be served in the territory of the United Kingdom shall be drawn up in the English language or be accompanied by a translation into that language. The translations of the documents to be served shall be enclosed in duplicate. Such translations shall be certified as correct by a translator.

Article 5. (1) The competent authority of the requested State shall cause the document to be served 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 State.

(2) The competent authority which has caused the request for service to be executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and setting forth the fact, the manner and the date of such service or attempted service, and shall send the said certificate to the diplomatic mission or consulate by which the request for service was sent. The certificate of service or of attempted service shall be placed on one of the duplicates or attached thereto and shall bear the seal of the competent authority.

(3) The execution of a request for service, made in accordance with the provisions of this Convention, may be refused only if the requested State considers that its sovereignty or security would be prejudiced thereby. Where a request for service is refused under this paragraph, the competent authority of the requested State shall immediately inform the diplomatic mission or consulate of the requesting State stating the grounds for refusing the request for service.

Article 6. (1) The diplomatic mission or consulate of either High Contracting Party may, without any request to or the intervention of the authorities of the other High Contracting Party, serve documents on nationals of the former Party who are in the territory of the latter Party.

(2) Documents may be transmitted through the post to nationals of one High Contracting Party who are in the territory of the other High Contracting Party without the intervention of the authorities of the latter Party.

Article 7. (1) The appropriate fee shall accompany any request for service sent in accordance with Articles 3, 4 and 5 of this Convention.* The fee charged by each High Contracting Party shall be a sum which that Party

* By Notes dated 22 April 1981 each Party notified the other that no fee will be charged.

notifies to the other Party when instruments of ratification of this Convention are exchanged. The sum may subsequently be changed from time to time upon the former Party giving not less than two months' notice to the other Party. The sum initially or subsequently notified shall not exceed the average reasonable cost of service.

(2) In any case where documents have been served or service has been attempted in some special manner at the request of one High Contracting Party as provided for in paragraph (1) of Article 5, that Party shall repay to the other High 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 which has caused the service to be effected from the diplomatic mission or consulate of the requesting State when sending to it the certificate provided for in paragraph (2) of Article 5.

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

PART III. TAKING OF EVIDENCE

Article 8. (1) When a court in the territory of one High Contracting Party requires evidence to be taken in the territory of the other High Contracting Party, such evidence may be taken in any of the ways prescribed in this Part of this Convention.

(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 party to the proceedings, expert or any other person on oath or otherwise;
and the production, identification and examination of documents, samples or other objects;
- (b) "Court" shall include any body exercising judicial functions;
- (c) "Witness" shall be deemed to include any person from whom any evidence, as defined above, is required to be taken;
- (d) "Requesting State" shall mean the State by whose court the evidence is required, and "requested State" the State in which the evidence is to be taken.

Article 9. (1) A court of the requesting State may, in accordance with the provisions of the law of that State, address itself by means of a Letter of Request to the competent authority of the requested State, requesting such authority to take the evidence or cause it to be taken. Letters of Request shall be transmitted to the competent authority of the requested State by the diplomatic mission or consulate of the requesting State.

(2) The competent authority shall be:

- (a) In the German Democratic Republic, the Ministry of Justice;
- (b) In the United Kingdom,
 - In England and Wales, the Senior Master of the Supreme Court of Judicature;
 - In Scotland, the Crown Agent, Edinburgh;
 - In Northern Ireland, the Supreme Court of Judicature of Northern Ireland, Belfast.

If the authority to which a Letter of Request has been sent is not the competent authority, such authority shall forward the request to the competent authority and inform the diplomatic mission or consulate by which the request was sent.

Article 10. A Letter of Request shall contain the following particulars:

- (a) The court making the request;
- (b) The nature of the proceedings for which the evidence is required;
- (c) The name, address, description and, where known, the nationality of each of the parties;
- (d) The name, address, description and, where known, the nationality of each of the witnesses.

In addition it shall either:

- (i) 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, samples or other objects to be produced, identified or examined, and a translation thereof, certified as correct; or
- (ii) Request the competent authority to allow such questions to be asked *viva voce* as the parties or their representatives shall desire to ask.

A Letter of Request to the competent authority in the German Democratic Republic shall be accompanied by a translation into the German language. A Letter of Request to a competent authority in the United Kingdom shall be accompanied by a translation into the English language. Such translations shall be certified as correct by a translator.

Article 11. (1) The Letter of Request shall be executed 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 a commission or order emanating from the courts of the requested State, except that, if a wish that some special procedure should be followed is expressed in the Letter of Request, such special procedure shall be followed in so far as it is not incompatible with the law of the requested State.

(2) The diplomatic mission or consulate by which the Letter of Request is transmitted shall be given reasonable notice of the date when and the place where the proceedings will take place, in order that it may give the interested party or parties the opportunity of being present in person or of being represented, if they so desire, by lawyers or by any representatives who are competent to appear before the courts of the requested State.

(3) When a Letter of Request has been executed, the competent authority to which it was transmitted or forwarded shall send to the diplomatic mission or consulate by which it was transmitted the necessary documents establishing its execution. If execution of the Letter of Request is impossible, the competent authority shall so inform the diplomatic mission or consulate by which it was transmitted, stating the reason why execution is impossible.

Article 12. The execution of a Letter of Request which complies with the provisions of Articles 9 to 11 of this Convention may be refused only if:

- (a) In the requested State the execution of the Letter of Request in question does not fall within the competence of the courts;
- (b) The requested State considers that its sovereignty or security would be prejudiced thereby.

When execution of a Letter of Request is refused under this Article, the competent authority of the requested State shall immediately inform the diplomatic mission or consulate of the requesting State, stating the reason for refusing execution.

Article 13. (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.

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

(3) If it has not been possible for a consular officer to take evidence as provided by this Article, this does not preclude a request being made subsequently in accordance with paragraph (1) of Article 9.

Article 14. (1) Where evidence is taken in the manner provided for in Articles 9 to 11 of this Convention, the High Contracting Party by whose court the Letter of Request was addressed shall repay to the other High Contracting Party any expenses incurred by the competent authority of the latter in the execution of the request.

(2) Repayments of these expenses shall be claimed by the competent authority which has caused the Letter of Request to be executed from the diplomatic mission or consulate by which it was transmitted, when sending in accordance with paragraph (3) of Article 11 the documents establishing its execution.

(3) Except as provided for in paragraph (1) of this Article, no fees of any description shall be payable in respect of the taking of evidence.

PART IV. EQUALITY OF TREATMENT IN JUDICIAL MATTERS

Article 15. The nationals of one High Contracting Party shall enjoy in the territory of the other High Contracting Party the same rights in respect of the legal protection of person and property, and shall have freedom of access

to the courts for the prosecution or defence of their rights under the same conditions, including court fees payable, as nationals of the other Party.

Article 16. (1) The nationals of one High Contracting Party shall enjoy in the territory of the other High Contracting Party equality of treatment with nationals of the latter Party as regards free or assisted legal advice and representation.

(2) The provisions of this Article shall not apply to legal persons.

PART V. FINAL PROVISIONS

Article 17. Any difficulties which may arise in connection with the operation of this Convention shall be settled through the diplomatic channel.

Article 18. The definition of territory in paragraph (2) (b) of Article 1 of this Convention may be extended in relation to the United Kingdom by agreement between the High Contracting Parties.

Article 19. (1) This Convention shall be subject to ratification. It shall enter into force on the thirtieth day after the exchange of instruments of ratification, which shall take place in London as soon as possible.

(2) This Convention shall remain in force for a period of five years. In case neither High Contracting Party shall have given to the other through the diplomatic channel, twelve months before the expiry of the said period of five years, written notice of termination, the Convention shall continue in force until the expiry of twelve months from the date on which notice is so given by one High Contracting Party to the other.

IN WITNESS WHEREOF, the Plenipotentiaries of the High Contracting Parties have signed this Convention and affixed thereto their seals.

DONE in duplicate at Berlin this 28th day of February 1980, in the English and German languages, both texts being equally authoritative.

For Her Britannic Majesty:

PETER FOSTER

For the Council of State
of the German Democratic Republic:

KURT NIER
