

**No. 22329**

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**FRANCE  
and  
MALI**

**Agreement on co-operation in the field of justice. Signed at  
Bamako on 9 March 1962**

*Authentic text: French.*

*Registered by France on 30 August 1983.*

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**FRANCE  
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**Accord de coopération en matière de justice. Signé à  
Bamako le 9 mars 1962**

*Texte authentique : français.*

*Enregistré par la France le 30 août 1983.*

## [TRANSLATION — TRADUCTION]

**AGREEMENT<sup>1</sup> ON CO-OPERATION IN THE FIELD OF JUSTICE  
BETWEEN THE FRENCH REPUBLIC AND THE REPUBLIC  
OF MALI**

The Government of the French Republic, on the one hand,  
The Government of the Republic of Mali, on the other,  
Have agreed on the following provisions:

**TITLE I. RECIPROCAL LEGAL ASSISTANCE****Chapter I. TRANSMITTAL AND SERVICE OF WRITS  
AND EXTRA-JUDICIAL DOCUMENTS**

*Article 1.* Writs and extra-judicial documents, in civil and commercial and in criminal and administrative matters, to be served on persons resident in the territory of one of the Contracting States shall be transmitted between the Ministries of Justice of the two States.

*Article 2.* The requested authority shall confine itself to serving the document on the addressee.

If the addressee accepts it, proof of service shall consist either of a dated receipt signed by him, or of a certificate by the requested authority confirming that service has been effected and indicating the manner and date of service. One or other of these documents shall be transmitted to the requesting authority.

If an addressee refuses to accept the document, the requested authority shall return it to the requesting authority forthwith and shall state the reason why service could not be effected.

*Article 3.* The cost of serving writs and extra-judicial documents shall not be refunded.

*Article 4.* The provisions of this chapter shall be without prejudice to the right of the Contracting States to cause writs and extra-judicial documents addressed to their nationals to be served directly by their representatives or deputies. Where there is a conflict between the legislation of the two countries, the nationality of the addressee shall be determined by the law of the country in which service is to be effected.

*Article 5.* The provisions of the preceding articles shall, in civil and commercial matters, be without prejudice to the right of interested parties resident in the territory of one of the Contracting States to have documents served on persons in the other State through law officials.

**Chapter II. TRANSMITTAL AND EXECUTION OF LETTERS ROGATORY**

*Article 6.* Letters rogatory in civil and commercial and in criminal and administrative matters to be executed in the territory of one of the Contracting

<sup>1</sup> Came into force on 14 January 1964, the date of the exchange of the instruments of approval (effected on 13 December 1963 and 14 January 1964), in accordance with article 60.

States shall be transmitted between the Ministries of Justice of the two States to be executed by the competent authorities of the requested State.

*Article 7.* The requested State may refuse to execute a letter rogatory if the letter rogatory does not fall within its competence or is liable to endanger the sovereignty, security or public policy of that State.

*Article 8.* Persons whose testimony is requested shall be invited to appear by a regular administrative notice. If they refuse to comply with such notice, the requested authority shall employ the means of coercion provided for in the legislation of the State in which the appearance takes place.

*Article 9.* The requested authority shall, at the express wish of the requesting authority, with all due dispatch:

- (1) Execute the letter rogatory by means of a special formality, if this formality does not conflict with the legislation of the State in which the letter is executed;
- (2) Inform the requesting authority in good time of the date and place of execution of the letter rogatory, so that the interested parties may be present, in accordance with the legislation of the requested State.

*Article 10.* The execution of letters rogatory shall not give rise to the refunding of any costs save the fees of experts.

*Article 11.* The provisions of this chapter shall be without prejudice to the right of the Contracting States to cause letters rogatory concerning the hearing of their nationals to be executed directly by their representatives or deputies.

Where there is a conflict between the legislation of the two countries, the nationality of the person in respect of whom the hearing is requested shall be determined by the law of the State in which the letter rogatory is to be executed at the time it is delivered.

### Chapter III. APPEARANCE OF WITNESSES IN CRIMINAL MATTERS

*Article 12.* If, in a criminal case, the personal appearance of a witness is necessary, the Government of the State in which he is resident shall call upon him to answer the summons. If he does, his travel expenses and subsistence allowance, which shall be calculated from his place of residence, shall be at least equal to those provided for under the scales and regulations in force in the State in which the hearing is to take place. At his request, he shall be advanced all or part of the travel expenses by the consular authority of the requesting State.

*Article 13.* No witness who is summoned in one of the two States and voluntarily appears before the judicial authorities of the other State may be prosecuted or detained in the latter State for offences or convictions antedating his departure from the territory of the requested State. This immunity shall cease fifteen days after the date on which the testimony has been completed and/or the return of the witness has become possible.

*Article 14.* Requests for the sending of witnesses who are in custody shall be transmitted between the Ministries of Justice of the two States.

Such requests shall be complied with, unless there are special objections, on the understanding that the said persons in custody are returned promptly.

#### Chapter IV. JUDICIAL RECORDS

*Article 15.* The Contracting States shall report to each other all convictions pronounced by their respective courts against nationals of the other State and against persons born in the territory of that State and entered in the judicial records.

*Article 16.* In proceedings before a court of one of the Contracting States, the *parquet* of that court may obtain directly from the competent authorities of the other State an extract from the judicial records relating to the person against whom the proceedings are being taken.

*Article 17.* Where, other than in the case of proceedings, the judicial or administrative authorities of one of the Contracting States wish to receive an extract from the judicial records of the other party, they may obtain it from the competent authorities, in the instances and within the limits prescribed in the legislation of that party.

#### Chapter V. CIVIL REGISTER AND AUTHENTICATION

*Article 18.* The French Government shall, at the times specified below, transmit to the Government of Mali a copy of certificates of recognition of natural children, marriage certificates, death certificates and certificates of legitimation issued in the territory of the French Republic, as well as extracts of judgements and decisions rendered in the territory of the French Republic in matters of divorce, separation, filiation, civil registration and deprivation of legal capacity, which concern persons born in the territory of the Republic of Mali.

Extracts of judgements and decisions rendered in matters of divorce and separation shall also be transmitted to the Republic of Mali when they concern persons who were married in that State.

Each quarter, copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted by the French Government to the Government of Mali.

The Government of Mali shall enter in the civil register, if necessary following transcription, appropriate particulars from such copies and extracts in the margin of the birth or marriage certificates of the persons concerned. In the absence of a grant of execution, particulars of judgements and decisions shall be included merely for information purposes.

*Article 19.* The Government of Mali shall, at the times specified below, transmit to the French Government a copy of certificates of recognition of natural children, marriage certificates, death certificates and certificates of legitimation issued in the territory of the Republic of Mali, as well as extracts of judgements and decisions rendered in the territory of the Republic of Mali in matters of divorce, separation, filiation, civil registration and deprivation of legal capacity, which concern persons born in the territory of the French Republic.

Extracts of judgements and decisions rendered in matters of divorce and separation shall also be transmitted to the French Republic when they concern persons who were married in that State.

Each quarter, copies and extracts of such documents, certificates, judgements and decisions issued or rendered during the preceding quarter shall be transmitted by the Government of Mali to the French Government.

The French Government shall enter in the civil register, if necessary following transcription, appropriate particulars from such copies and extracts in the margin of the birth or marriage certificates of the persons concerned. In the absence of a grant of execution, particulars of judgements and decisions shall be included merely for information purposes.

*Article 20.* Each quarter, the French Government shall transmit to the Government of Mali the original or a copy of birth certificates concerning nationals of that State issued in French territory during the preceding quarter.

Each quarter, the Government of Mali shall transmit to the French Republic the original or a copy of birth certificates concerning French nationals issued in the territory of Mali during the preceding quarter.

*Article 21.* The French Government and the Government of Mali shall issue free of charge copies of extracts from the civil register made out in the respective territories of the two States, when so requested, for a duly specified administrative reason or for needy nationals.

They shall also issue free of charge copies of extracts from the civil register made out in the respective territories of the two States where such extracts relate to aliens who are nationals of a third country and are requested for a duly specified administrative reason.

Extracts from the civil register made out or transcribed in diplomatic and consular posts shall be equated with extracts from the civil register made out in the respective territories of the two States.

The issue of copies of extracts from the civil register shall in no way prejudice the question of the nationality of the person concerned so far as the two States are concerned.

*Article 22.* Requests made respectively by the French Government and the Government of Mali shall be transmitted to the Malian local authorities and the French local authorities by the representatives of the Contracting States.

Requests shall state briefly the grounds on which they are made.

*Article 23.* Extracts from the civil register, as referred to in articles 21 and 22 above, mean:

Birth certificates;

Declarations of still births;

Certificates of recognition of natural children made out by civil registrars;

Certificates of legitimation;

Marriage certificates;

Death certificates;

Transcripts of court orders, judgements or decisions in matters relating to the civil register;

Transcripts of judgements or decisions relating to divorce and separation.

*Article 24.* The following documents, made out by the administrative and judicial authorities in either State, shall be accepted, without need of authentication, in the respective territories of the French Republic and the Republic of Mali:

Copies of extracts from the civil register;

Copies of decisions, orders, judgements, rulings and other judicial documents;  
Written statements or other judicial documents registered or filed in the courts of the two States;

Notarized documents;

Certificates of entitlement for annuitants.

The foregoing documents shall bear the signature and the official seal of the authority competent to issue them and, in the case of copies, they shall be certified as true copies of the original by the said authority. In all cases, they shall be made out in such a way as to establish their authenticity.

#### Chapter VI. SECURITY FOR COSTS AND PENALTIES BY FOREIGN PLAINTIFFS ("CAUTIO JUDICATUM SOLVI") AND LEGAL AID

*Article 25.* French nationals in the Republic of Mali or nationals of the Republic of Mali in France shall not be required to pay any security or deposit, of whatever kind, by reason of their status as foreigners or the absence of domicile or residence in the country.

The preceding paragraph shall apply to bodies corporate set up or authorized under the law of one of the two States.

*Article 26.* Nationals of either State shall, in the territory of the other State, be entitled to legal aid on the same basis as the nationals of that State, provided they comply with the law of the country in which the aid is requested.

Certificates of need shall be issued to applicants by the authorities at their normal place of residence, if they are resident in the territory of one of the two States.

If the person concerned is a resident of a third State, the certificate shall be issued by the appropriate consul for the territory.

Where the person concerned is resident in the State in which the request is made, additional information may be sought from the authorities of the State of which he is a national.

#### Chapter VII. MISCELLANEOUS PROVISIONS

*Article 27.* Since the Council of State and the Court of Cassation have ceased to have jurisdiction in appeals and remedies against decisions by Malian courts, the files of pending cases before these Supreme Courts shall be transmitted, in full, to the Ministry of Justice of the Republic of Mali.

*Article 28.* *Avocats* members of the Malian bar may assist or represent parties before all French courts, whether in preliminary investigations or in court hearings, under the same conditions as *avocats* members of the French bar, subject to the authorization of the competent Procurator General. As a reciprocal measure, *avocats* members of the French bar may assist or represent parties before all Malian courts, whether in preliminary investigations or in court hearings, under the same conditions as *avocats* members of the Malian bar, subject to the authorization of the competent Procurator General.

However, any *avocat* who exercises the right to assist or represent parties before a court of the other State must, for the purpose of receiving any notifications required by law, give the address of an *avocat* of that State.

*Article 29.* Evidence of the legislative provisions and customary law of either State shall be presented to the courts of the other State in the form of “certificates of custom” made out by the consular authorities concerned.

*Article 30.* Any national of one of the two Contracting States who has been given a sentence involving imprisonment or a more serious penalty may, at the request of either Government, be handed over to the authorities of the State of which he is a national in order to serve his sentence.

The costs of the transfer shall be borne by the requesting State.

## TITLE II. GRANT OF EXECUTION IN CIVIL, COMMERCIAL AND ADMINISTRATIVE MATTERS

*Article 31.* In civil and commercial matters, decisions in adversary and non-adversary proceedings rendered by the courts in the territory of the French Republic and in the territory of the Republic of Mali must, in order to have the force of *res judicata* in the territory of the other State, satisfy the conditions laid down in the legislation of that State.

*Article 32.* The decisions referred to in the preceding article and decisions which have been declared provisionally enforceable may be enforced by the authorities of the other State or be the subject of a formal procedure initiated by those authorities, for example, by entries, or corrections in the civil registers, only if they have been declared enforceable.

*Article 33.* Execution shall be granted at the request of an interested party by the competent authority, in accordance with the law of the State in which it is requested, and under the conditions laid down in the legislation of that State.

The procedure for requesting a grant of execution shall be governed by the legislation of the State in which execution is requested.

*Article 34.* The competent authority shall, where necessary, order the requisite measures to ensure that the decision subject to execution is publicized in the same way as if it had been rendered in the State in which it is declared enforceable.

Execution may be granted for only part of the decision invoked.

*Article 35.* The decision granting execution shall be binding on all parties concerned and throughout the territory to which this Agreement applies.

It shall, as from the date on which the grant of execution is obtained, make it possible for the decision which has been rendered enforceable to have, in so far as enforcement measures are concerned, the same effect as if it had been rendered by the court which has granted execution on the date on which execution was granted.

*Article 36.* The party to the court invoking the authority of a judicial decision or requesting its execution shall produce:

- (a) A duly certified copy of the decision;
- (b) The original of the certificate of service of the decision or of any other equivalent document;
- (c) A certificate of the clerk of court establishing that there is no objection to or appeal against the decision;

(d) Where necessary, a copy of the summons served on the defaulting party, certified as a true copy by the clerk of the court which rendered the decision.

*Article 37.* Arbitral awards validly rendered in either State shall be recognized in the other State and may be declared enforceable in that State if they fulfil the conditions of article 31.

*Article 38.* Legal instruments, including notarized documents which are enforceable in either State, shall be declared enforceable in the other State by the President of the court referred to in article 33, paragraph 1, in accordance with the law of the State in which they are to be executed.

The said authority shall merely ascertain whether the instruments meet the requirements for authenticity in the State in which they have been received and whether enforcement of their provisions is contrary to the public policy of the State in which execution is required or to the principles of public law of that State.

*Article 39.* Land mortgage contracts concluded in either country shall be registered and shall be valid in the other country only when the document containing the agreement has been rendered enforceable by the competent authority in accordance with the law of the country in which registration is requested.

The said authority shall merely ascertain that the documents and the pertinent power of attorney meet all the requirements for validity in the country in which they are received.

The preceding provisions shall also apply to documents recording the satisfaction or reduction of mortgages signed in either country.

*Article 40.* The execution of decisions rendered in administrative matters shall be carried out as indicated in this title, except that the court competent to hear adversary disputes in the first instance shall replace the competent authority referred to in article 33, paragraph 1.

### TITLE III. EXTRADITION

*Article 41.* The Contracting Parties undertake to surrender to each other, in accordance with the rules and conditions laid down in the following articles, persons in the territory of either State who are the subject of proceedings or have been sentenced by the judicial authorities of the other State.

*Article 42.* The Contracting Parties shall not extradite their own nationals. Nationality shall mean the nationality at the time of commission of the offence for which extradition is requested.

The requested party undertakes, however, in so far as it is competent to judge them, to institute proceedings against any of its nationals who, in the territory of the other State, have committed offences which are punishable as crimes or correctional offences in the two States, when it has received from the other party through the diplomatic channel a request for proceedings accompanied by the files, documents, exhibits and information in its possession. The requesting party shall be informed of the result of its request.

*Article 43.* The following shall be subject to extradition:

- (1) Persons against whom proceedings are being taken for crimes or offences punishable under the laws of both Contracting Parties by at least two years' imprisonment;



- (2) Persons who, for crimes or offences punishable under the law of the requested State, are sentenced *audiatur et altera pars* or in default by the courts of the requesting State to at least two months' imprisonment.

*Article 44.* Extradition shall not be carried out if the offence in respect of which it is requested is regarded by the requested party as a political offence or as an offence allied to a political offence.

*Article 45.* Extradition may be refused if the offence in respect of which it is requested consists solely of non-fulfilment of military obligations.

*Article 46.* Extradition shall be granted, under the conditions laid down in this Agreement in matters relating to taxes, duties, customs and foreign exchange, when so decided by a simple exchange of letters for each specially designated offence or category of offences.

*Article 47.* Extradition shall be refused:

- (a) If the offences in respect of which it is requested have been committed in the requested State;
- (b) If final judgement on the offences has been rendered in the requested State;
- (c) If the act or the sentence falls under the statute of limitations in accordance with the legislation of the requesting State or of the requested State at the time of the latter's receipt of the request.
- (d) If the offences have been committed outside the territory of the requesting State by a person who is not a national of that State and the legislation of the requested country does not authorize proceedings in connexion with such offences when they are committed outside its territory by an alien;
- (e) If an amnesty has been declared in the requesting State or if an amnesty has been declared in the requested State, provided, in the latter case, that the offence is one for which proceedings may be instituted in that State when it has been committed outside the territory of that State by an alien of that State.

Extradition may be refused if the offences are the subject of proceedings in the requested State or judgement on them has been rendered in a third State.

*Article 48.* A request for extradition shall be sent through the diplomatic channel.

It shall be accompanied by the original or a certified copy of either an enforceable sentence or a warrant of arrest or any other document having the same force and issued in the manner prescribed by the law of the requesting State.

The circumstances of the acts in respect of which extradition is requested, the time and place of their commission, their designation in law and references to the legal provisions applicable thereto shall be stated as accurately as possible. A copy of the relevant legal provisions shall also be attached and, so far as possible, the particulars of the person claimed and any information which will help to establish his identity and nationality.

*Article 49.* In an emergency, provisional arrest shall be made at the request of the competent authorities of the requesting State, pending receipt of the request for extradition and the documents referred to in the second paragraph of article 48.

A request for provisional arrest shall be sent to the competent authorities of the requested State either directly by post or telegraph or by any other means affording evidence in writing. It shall, at the same time, be confirmed through the diplomatic channel.

It shall state that one of the documents mentioned in the second paragraph of article 48 exists and that it is intended to send a request for extradition.

It shall state the offence in respect of which extradition is requested, when and where it was committed, and the particulars of the person claimed, which shall be as accurate as possible. The requesting authority shall be informed without delay of the result of its request.

*Article 50.* Provisional arrest may be terminated if, within a period of 20 days after the arrest, the requested authorities have not received any of the documents mentioned in the second paragraph of article 48.

Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

*Article 51.* Where supplementary information is essential to ensure that the conditions laid down in this Agreement are fulfilled, the requested State, when it feels that the omission can be rectified, shall advise the requesting State through the diplomatic channel before it refuses the request. A time-limit may be set by the requested State for the receipt of such information.

*Article 52.* If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested State shall make its decision freely, having regard to all the circumstances and especially the possibility of subsequent extradition between the requesting States, the respective dates of the requests, and the relative seriousness and the place of commission of the offences.

*Article 53.* Where there are grounds for extradition, all property which has been acquired as a result of the offence or may serve as evidence and is found at the time of his arrest in the possession of the person claimed, or is discovered subsequently, shall, at the request of the requesting State, be confiscated and handed over to the authorities of that State.

*Article 54.* The requested State shall inform the requesting State through the diplomatic channel of its decision with regard to extradition.

If the request is agreed to, the requesting State shall be informed of the place and date of surrender. Unless otherwise agreed, the person extradited shall be conducted by the requested State to the place designated by the diplomatic mission of the requesting State.

Except as provided for in the last paragraph of this article, the requesting State shall have its agents take over the person to be extradited within a period of one month from the date determined in accordance with the second paragraph of this article. Once that period has expired, the person shall be released and cannot be claimed again for the same offence.

If exceptional circumstances prevent the person who is to be extradited from being surrendered or taken over, the State concerned shall inform the other State before the period expires. The two States shall agree on another date for surrender and the provisions of the preceding paragraph shall apply.

*Article 55.* If the person is the subject of proceedings or has been sentenced in the requested State for an offence other than the one giving rise to the request for extradition, the latter State shall nonetheless take a decision on the request and inform the requesting State of its decision regarding the extradition, in the manner prescribed in the first paragraph of the preceding article. If the request is agreed to, surrender shall, however, be deferred until the legal requirements of the requested State have been met.

Surrender shall take place on a date to be determined in accordance with the provisions of the preceding article.

The provisions of this article shall not prevent the person concerned from being sent temporarily to appear before the judicial authorities of the requesting State, on the express condition that he shall be returned once those authorities have rendered their judgement.

*Article 56.* A person who has been extradited may not be the subject of proceedings or be sentenced or detained for the purpose of carrying out a sentence for any offence committed prior to his surrender other than the offence which has given rise to the extradition, except in the following cases:

- (1) When the person who is extradited, having been free to leave the territory of the State to which he has been surrendered, has not done so within thirty days of his final discharge, or has returned to that territory after leaving it;
- (2) When the State which has surrendered him consents, a request for consent shall be submitted, accompanied by the documents referred to in the second paragraph of article 48 and by a legal record of any statement by the extradited person on the extension of the extradition and mentioning the opportunity afforded him to submit a memorandum in his own defence to the authorities of the requested State. When the designation of the offence is altered in the course of the proceedings, the person extradited shall be the subject of proceedings or sentenced or detained only in so far as the factors constituting the newly designated offence would permit extradition.

*Article 57.* Except in cases where the person concerned has remained in the territory of the requesting State under the conditions laid down in the preceding article or is returned to that territory under such conditions, the consent of the requested State shall be required to enable the requesting State to hand over the person surrendered to it to a third State.

*Article 58.* Expenses incurred under the procedures described in this chapter shall be borne by the requesting State, it being understood that no claims shall be made for the costs of proceedings or of imprisonment.

## FINAL PROVISIONS

*Article 59.* The transmittal of judicial documents in implementation of this Agreement shall be effected, except where otherwise provided therein, through the diplomatic channel.

*Article 60.* This Agreement shall enter into force on the date of the exchange of instruments of approval.

It shall remain in force until six months after the day on which one of the parties notifies the other of its intention to terminate it.

The provisions of this Agreement shall remain applicable for the completion of procedures prescribed in it which were begun before the date on which one of the Contracting Parties effected the notification referred to in the previous paragraph.

DONE in duplicate at Bamako on 9 March 1962.

For the Government  
of the French Republic:

[Signed]

J. FOYER

For the Government  
of the Republic of Mali:

[Signed]

IDRISSA DIARRA