

No. 22388

**HUNGARY
and
ITALY**

**Convention on legal assistance in civil matters. Signed at
Budapest on 26 May 1977**

Authentic text: French.

Registered by Hungary on 13 October 1983.

**HONGRIE
et
ITALIE**

**Convention sur l'entraide judiciaire en matière civile. Signée
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Texte authentique : français.

Enregistrée par la Hongrie le 13 octobre 1983.

[TRANSLATION — TRADUCTION]

CONVENTION¹ ON LEGAL ASSISTANCE IN CIVIL MATTERS BETWEEN THE HUNGARIAN PEOPLE'S REPUBLIC AND THE ITALIAN REPUBLIC

The Presidential Council of the Hungarian People's Republic and the President of the Italian Republic, desiring to regulate legal assistance between the two States in civil, commercial and family matters, have agreed to conclude a Convention on the subject and for this purpose have appointed as their plenipotentiaries:

The Presidential Council of the Hungarian People's Republic:

H. E. Mihály Korom, Minister of Justice;

The President of the Italian Republic:

H. E. Francesco Paolo Bonifacio, Minister of Justice,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions:

UNRESTRICTED ACCESS TO THE COURTS

Article 1. 1. Nationals of each of the Contracting Parties shall, in the territory of the other Party, be entitled to the same treatment as its own nationals in judicial, civil, commercial and family law matters. To this end, they shall have free and unrestricted access to the courts and may initiate proceedings under the same conditions and in the same manner as nationals of the country concerned.

2. Nationals of either Contracting Party having their domicile or habitual residence in the territory of one of the Parties 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 concerned.

3. The foregoing provisions shall also apply to bodies corporate which are set up in accordance with the laws of one of the Contracting Parties and have their main office in the territory of that Party.

DEFINITIONS

Article 2. For the purposes of this Convention, "courts" shall mean any authority, of whatever nature, having jurisdiction in civil, commercial and family law matters.

PURPOSE OF LEGAL ASSISTANCE

Article 3. 1. The courts of the Contracting Parties shall afford each other legal assistance in the matters covered by this Convention.

2. Legal assistance shall relate to the performance of acts required in connexion with judicial proceedings, and, in particular, the service of documents, the hearing of witnesses and experts, and the transmittal of physical evidence and exhibits.

¹ Came into force on 13 March 1981, i.e., 30 days after the exchange of the instruments of ratification, which took place at Rome on 11 February 1981, in accordance with article 24 (1).

REFUSAL OF LEGAL ASSISTANCE

Article 4. 1. The requested court may refuse to carry out a request for legal assistance if, under the law of its country, the request is not within its competence, if it is likely to endanger sovereignty and security, or if it is contrary to the general principles of legislation of the State in which it is to take place.

2. Assistance may not be refused on the sole ground that the legal action is based on principles of law which are unknown in the legislation of the requested Party.

TRANSMITTAL OF REQUESTS FOR LEGAL ASSISTANCE

Article 5. The courts of the Contracting Parties shall transmit their requests for legal assistance through their Ministries of Justice.

TRANSMITTAL OF WRITS AND EXTRA-JUDICIAL DOCUMENTS

Article 6. 1. Writs and extra-judicial documents to be served on persons resident in the territory of one of the Contracting Parties shall be transmitted through the channel referred to in the preceding article.

2. The provisions of this article shall be without prejudice to the right of the Contracting Parties to cause writs addressed to their own nationals to be served directly by their diplomatic or consular representatives, provided that they are not at the same time nationals of the other Contracting Parties.

Article 7. 1. Writs and extra-judicial documents must be accompanied by a covering note specifying, as applicable:

- (a) The authority issuing the document;
- (b) The nature of the document to be served;
- (c) The names and status of the parties;
- (d) The name and address of the addressee.

2. The covering note shall be drawn up in the language of this Convention or shall be accompanied by a translation in that language, certified by the authorities of the requesting State. For the translation of documents accompanying the covering note, the provisions of article 8 shall apply.

SERVICE OF DOCUMENTS

Article 8. 1. If the document to be served has been drawn up in the language of the requested court or a translation in that language has been attached to it, the requested court shall effect the service, applying its own legal rules.

2. With the exception of the cases referred to in paragraph 1, the document may not be served on the addressee unless he is willing to accept it.

3. The translation referred to in paragraph 1 must be a translation carried out by an authorized body or a sworn translator of one of the Contracting Parties.

4. The requested court may effect the service when asked by the requesting court, and may do so in accordance with a special procedure desired by the requesting court, provided that it is not contrary to the general principles of law of the State of the requested court.

Article 9. When the address of the person to be heard or on whom the document must be served has been unprecisely indicated or is incorrect, the requested court shall, if possible, establish the correct address.

Article 10. Proof of service shall consist of a dated receipt, bearing the signature of the person who served it and of the recipient, and also the seal of the court authorized to effect the service or a certificate of the court indicating the place, manner and date of service.

Article 11. The cost of serving writs and extra-judicial documents shall not be refunded.

TRANSMITTAL AND EXECUTION OF LETTERS ROGATORY

Article 12. 1. Letters rogatory to be executed in the territory of the one of the Contracting Parties shall be executed by the courts.

2. They shall be transmitted through the channel referred to in article 5.

3. If the requested court is not competent, it shall automatically transmit the letter rogatory to the competent court and inform the requesting court forthwith.

4. The provisions of this article shall be without prejudice to the right of the Contracting Parties to cause letters rogatory concerning the hearing of their nationals to be executed directly by their diplomatic or consular representatives, provided that they are not at the same time nationals of the other Contracting Party.

Article 13. Letters rogatory shall be accompanied by a translation in the language of this Convention, carried out by an authorized body or a sworn translator of one of the Contracting Parties.

Article 14. 1. The requested authority, in executing letters rogatory, shall apply its national legislation.

2. However, when expressly asked to do so by the requesting court, the requested court shall:

- (a) Execute the letter rogatory by means of formalities specified by the requesting court, provided that they do not conflict with its national legislation;
- (b) Notify the requesting court, 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 Contracting Party.

Article 15. The execution of letters rogatory shall not give rise to the refunding of any costs save the fees of experts.

EXECUTION OF DECISIONS RENDERED REGARDING COSTS

Article 16. 1. If the party which is exempt, by virtue of article 1, paragraph 2, from paying security for costs and penalties (*cautio judicatum solvi*) has been obliged by a final and binding decision to pay the costs of the procedure, the provisions of articles 18 and 19 of the Convention relating to civil procedure done at The Hague on 1 March 1954¹ shall be applied to the execution of that decision in the territory of the other Contracting Party.

¹ United Nations, *Treaty Series*, vol. 286, p. 265.

2. A request for grant of execution must be submitted to the court of the first instance, which shall transmit it, through the channel referred to in article 5 of this Convention, to the competent court of the other Contracting Party.

FREE LEGAL ASSISTANCE

Article 17. 1. The granting of free legal aid shall be regulated by the provisions of article 20 to 22 and 24 of the Convention relating to civil procedure done at The Hague on 1 March 1954.

2. When the party requesting free legal aid is not in the country in which the free legal aid is to be granted, it may also apply to the competent court of its place of domicile or habitual residence. That court shall transmit the request through the channel referred to in article 5 of this Convention to the competent court of the other Contracting Party.

EXEMPTION FROM AUTHENTICATION

Article 18. Documents drawn up in the manner prescribed by the competent authority of one of the Contracting Parties in its jurisdiction or legalized documents bearing an official seal for service in the territory of the other Contracting Party shall be exempt from all forms of diplomatic or consular authentication.

EXCHANGE OF EXTRACTS FROM THE CIVIL REGISTER

Article 19. 1. The Contracting Parties shall send each other, once a year, without duty or taxes, extracts from the civil register relating to the birth, marriage and death of nationals of the other Contracting Party.

2. Where the civil registration authority of one of the Contracting Parties at a later stage makes a new entry or a correction in the civil register relating to the civil status of a national of the other Contracting Party, the document containing the new entry or correction must also be sent to that Contracting Party.

3. The Contracting Parties shall send each other authentic copies of decisions rendered by their courts relating to the civil status of nationals of the other Contracting party.

Article 20. The civil registration authorities of each Contracting Party shall send to the authority of the other Contracting Party documents from the civil register relating to their nationals or nationals of other countries, without duty or taxes, which are requested for official use. The purpose of that use must be duly indicated in the request.

Article 21. The transmittal or receipt of the documents mentioned in articles 19 and 20 shall be effected through the diplomatic or consular channel, without the need for an accompanying translation.

EXCHANGE OF LEGAL INFORMATION

Article 22. The Ministries of Justice of the Contracting Parties undertake to communicate to each other, on request, all legal information necessary for the implementation of this Convention, and all other information on the legal provisions in force.

FINAL PROVISIONS

Article 23. This Convention shall be ratified; the instruments of ratification shall be exchanged at Rome as soon as possible.

Article 24. 1. This Convention shall enter into force 30 (thirty) days after the exchange of the instruments of ratification and shall cease to have effect one year following the date on which one of the Contracting Parties denounces it.

2. On the date of the entry into force of this Convention, the following shall cease to have effect: the Convention done at Rome on 6 April 1922 on the reciprocal protection of nationals, and the Declarations made at Rome on 29 September 1883 and at Vienna on 16 October 1883 on the reciprocal communication of extracts from the civil register and acts of naturalization.

IN WITNESS WHEREOF the plenipotentiaries have affixed their signatures and their seals to this Convention.

DONE at Budapest, on 26 May 1977, in duplicate in the French language.

On behalf
of the Hungarian People's Republic:

[MIHÁLY KOROM]

On behalf
of the Italian Republic:

[FRANCESCO PAOLO BONIFACIO]