

**No. 23328**

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**BELGIUM  
and  
GERMAN DEMOCRATIC REPUBLIC**

**Convention concerning judicial assistance in civil matters  
(with exchange of letters). Signed at Brussels on  
29 November 1982**

*Authentic texts: French, Dutch and German.*

*Registered by Belgium on 16 April 1985.*

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**BELGIQUE  
et  
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

**Convention relative à l'entraide judiciaire en matière civile  
(avec échange de lettres). Signée à Bruxelles le 29 no-  
vembre 1982**

*Textes authentiques : français, néerlandais et allemand.*

*Enregistrée par la Belgique le 16 avril 1985.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE KINGDOM OF BELGIUM AND  
THE GERMAN DEMOCRATIC REPUBLIC CONCERNING JUDICIAL ASSISTANCE IN CIVIL MATTERS

The Kingdom of Belgium and  
The German Democratic Republic,

Desiring to regulate their relations in the sphere of judicial assistance in civil matters and to develop further the friendly relations between the two States in the spirit of the provisions of the Final Act of the Helsinki Conference on Security and Co-operation in Europe,<sup>2</sup>

Have decided to conclude this Convention and have for that purpose appointed as their plenipotentiaries:

His Majesty the King of the Belgians: Mr. Leo Tindemans, Minister for Foreign Affairs;

The State Council of the German Democratic Republic: Mr. Oskar Fischer, Minister for Foreign Affairs,

who have agreed as follows:

## TITLE I. LEGAL PROTECTION

*Article 1. FREE ACCESS TO THE COURTS*

(1) In civil matters, the nationals of one Contracting State shall have in the territory of the other Contracting State, free and unimpeded access to the judicial authorities, under the same conditions as the nationals of that other State, for the pursuit and defence of their rights and interests.

(2) Paragraph 1 shall also apply to bodies corporate which are constituted in accordance with the laws of a Contracting State and have their head office in the territory of that State.

(3) For the purposes of this Convention, civil matters means family, commercial and labour law matters.

*Article 2. LEGAL AID*

(1) The nationals of one Contracting State shall benefit from legal aid in the territory of the other Contracting State under the same conditions and to the same extent as the nationals of that Contracting State.

(2) If legal aid has been granted in one Contracting State to a national of either of the other Contracting States, the service by any method of document relating to the proceedings which has to be effected in the other Contracting State shall not give rise to any reimbursement of costs by the requesting State to the

<sup>1</sup> Came into force on 11 January 1985, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Berlin on 12 December 1984, in accordance with article 28 (1).

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

requested State. The same shall apply in the case of requests for legal aid for the execution of legal documents with the exception of the expenses of experts.

### Article 3. CONDITIONS

(1) The decision relating to the request for legal aid shall be subject to the submission of a certificate attesting that the applicant does not have or has only part of the means needed to meet the costs of the case.

(2) The certificate shall be issued by the competent authority of the Contracting State on whose territory the applicant is domiciled or resident.

(3) If the applicant is neither domiciled nor resident in the territory of one of the Contracting States, he may submit a certificate issued either by the competent authority of his State of domicile or residence or by the competent diplomatic or consular establishment of his State of nationality.

(4) The request and the certificate shall be drawn up in the official language or one of the official languages of the requesting State.

### Article 4. TRANSMITTAL OF THE REQUEST

The request for legal aid may be transmitted by the means stipulated in article 12.

### Article 5. VERIFICATION OF THE DOCUMENTS SUBMITTED

The authority called upon to rule on the request for legal aid may verify the accuracy of the certificate produced and, if necessary, request additional information from the competent authority of the other Contracting State.

### Article 6. EXEMPTION FROM "CAUTIO JUDICATUM SOLVI"

(1) Nationals of one Contracting State who are plaintiffs or parties by intervention before the courts of the other Contracting State shall be exempted from the payment of security for the costs and expenses of the proceedings.

(2) Paragraph 1 shall also apply to bodies corporate constituted in accordance with the legislation of one Contracting State and having their head office in the territory of that State.

### Article 7. ENFORCEMENT OF DECISIONS RELATING TO COSTS AND EXPENSES

(1) If one party to the proceedings has been exempted from payment of security pursuant to article 6 and is ordered to reimburse costs and expenses by a decision which has acquired the force of *res judicata*, such decision must, at the request of the other party to the proceedings, be enforced without charge in the territory of the other Contracting State.

(2) Paragraph 1 shall also apply to judicial decisions which provide that the amount of costs and expenses is to be established subsequently.

### Article 8. REQUEST FOR EXEQUATUR

(1) A request for an exequatur to enforce a decision provided for under article 7 may be transmitted to the competent court of the requested State by the method stipulated in article 12. The request may also be addressed directly by the

interested party to the competent court of the Contracting State on whose territory enforcement is sought.

(2) The request shall be accompanied:

1. By a copy of the decision which has acquired the force of *res judicata*;
2. By a certificate establishing that the party found against was summoned regularly and could be represented in accordance with the laws of the State where judgement was passed.
3. In the case of the German Democratic Republic by an attestation establishing that the decision has acquired the force of *res judicata* and in the case of the Kingdom of Belgium by an attestation establishing that the decision is not the subject of an ordinary appeal or of an appeal to the Court of Cassation, or that it is no longer subject to such appeals;
4. By the certified true translation of the documents mentioned in subparagraphs 1 to 3 above in the language of the requested State.

#### Article 9. PROCEDURE

(1) The Court which rules on the request for an exequatur shall limit itself to verifying that the conditions stipulated in articles 7 and 8 have been met.

(2) The exequatur shall be granted without hearing the parties, except in the case of a subsequent appeal by the party found against, in conformity with the legislation of the Contracting State in whose territory enforcement is sought.

### TITLE II. JUDICIAL ASSISTANCE IN CIVIL MATTERS

#### Article 10. OBLIGATION OF JUDICIAL ASSISTANCE

(1) The Contracting States undertake to grant each other the judicial assistance in civil matters, at the request of their competent authorities and in accordance with the provisions of this Convention.

(2) The following shall be considered to be competent authorities for the purposes of paragraph 1:

- In the German Democratic Republic: the courts, State notary's offices and youth aid services;
- In the Kingdom of Belgium: the judicial authorities and huissiers de justice.

#### Article 11. PURPOSE OF JUDICIAL ASSISTANCE

The function of judicial assistance is the execution of legal documents (letters rogatory) together with the delivery of judicial and extrajudicial documents.

#### Article 12. TRANSMITTAL OF REQUESTS

Unless this Convention provides otherwise, the competent authorities of the Contracting States shall communicate with each other through the Ministries of Justice.

#### Article 13. LANGUAGES AND TRANSLATIONS

(1) In relations between themselves, the Ministries of Justice shall correspond each in the language of its State.

(2) Requests for judicial assistance shall be drawn up in the official language or one of the official languages of the requesting State.

(3) Judicial and extrajudicial documents shall, nevertheless, be accompanied by a translation in the official language or one of the official languages of the requested State.

#### *Article 14. CONTENT AND FORM OF REQUESTS*

(1) Letters rogatory shall indicate the following:

1. The competent authority making the request;
2. The purpose of the request;
3. The names of the interested parties, their nationality, profession, domicile or residence and their function in the case;
4. Should the need arise, the names and addresses of their legal representatives;
5. The facts to be proved or the obligations to be enforced, together with a summary of the facts if one is required for an understanding of the matter.

(2) Requests for delivery of judicial and extrajudicial documents shall contain the information mentioned in paragraph 1, subparagraphs 1 to 4 as well as the address and nationality of the addressee.

#### ENFORCEMENT OF REQUESTS

##### *Article 15*

(1) The execution of requests for judicial assistance shall be effected in accordance with the legislation of the requested State.

(2) On application, a procedure which does not comply with the legislation of the requested State may be used provided that it is not incompatible with the principles of the public law of the requested State.

(3) On application, the requested court shall duly inform the requesting court of the date and place of execution of the request for judicial assistance relating to a legal document.

This communication may be sent directly by mail.

##### *Article 16*

(1) If the requested authority is not competent to execute the request for judicial assistance, it shall transmit the request to the competent authority in accordance with the provisions of article 10, paragraph 2.

(2) If the person designated in the request cannot be found at the address given, the requested authority shall take the necessary measures to determine his residence.

(3) If the requested authority cannot execute the request, it shall so inform the requesting authority by the means stipulated in article 12 and shall communicate the reasons why the request could not be enforced.

##### *Article 17*

(1) If the document is not drawn up in the language of the requested State or is not accompanied by a certified true translation in that language, it can be served

only if the addressee is prepared to receive it voluntarily. If, on this ground, he refuses to receive the document, service shall be considered void. In such case, the Ministers of Justice shall agree on the arrangements for service.

(2) Proof of service shall be either a dated receipt signed by the addressee or an attestation by the requested authority indicating the manner, place and date of service.

*Article 18. COMPETENCE OF DIPLOMATIC  
OR CONSULAR AGENTS*

Each Contracting State is authorized to execute, without coercion, requests for judicial assistance through its diplomatic or consular agents if the person on whom a document is to be served or whose hearing is requested is a citizen of that State, is residing in the territory of the other State and is not at the same time a citizen of the latter State.

*Article 19. COST OF JUDICIAL ASSISTANCE*

Cost connected with the enforcement of requests for judicial assistance shall be defrayed by the requested State. The expenses of experts shall, however, be reimbursed by the requesting State.

*Article 20. REFUSAL OF JUDICIAL ASSISTANCE*

Judicial assistance may be refused if execution of the request:

1. Is not within the competence of the authorities of the requested State mentioned in article 10, paragraph 2;
2. Might endanger the sovereignty, security or principles of public law of the requested State.

**TITLE III. EXCHANGE OF LEGAL INFORMATION**

*Article 21. EXCHANGE OF INFORMATION  
BETWEEN THE MINISTRIES OF JUSTICE*

The Ministries of Justice of the Contracting States shall communicate to each other, upon request and without charge, information concerning their legislation and their court decisions in civil matters.

*Article 22. LEGAL INFORMATION RELATING TO JUDICIAL PROCEEDINGS*

(1) If, in a civil action, a court of one Contracting State must apply the law of the other Contracting State, the necessary information may be requested from that State pursuant to article 21.

(2) The request for information shall indicate the court before which the case is pending and the proceedings in progress. It shall be accompanied by a summary of the facts.

*Article 23. LANGUAGES AND TRANSLATIONS*

Requests for information shall be drawn up in the language or one of the official languages of the requesting State and shall be accompanied by a translation in the language or one of the official languages of the requested State. The same rule shall apply to documents annexed to a request for information.

## TITLE IV. DOCUMENTS

*Article 24. EXEMPTION FROM LEGALIZATION*

(1) Documents drawn up in the prescribed form by a court, an administrative authority, or a person authorized for that purpose under the legislation of one Contracting State, in the performance of their respective duties, shall, when submitted to the court or other authorities of the other Contracting State, be exempt from any other form of authentication or legalization, provided that they are signed and bear the seal of the authority or person issuing them.

(2) Paragraph (1) shall also apply to the certification of signatures or copies of documents.

*Article 25. TRANSMITTAL OF OFFICIAL RECORDS RELATING TO CIVIL STATUS AT THE REQUEST OF THE AUTHORITIES*

(1) The Contracting States undertake to transmit to each other, without fee or charge, at the request of the competent authorities for their administrative use, official records relating to civil status and certified true copies of court decisions relating to the civil status of nationals of the other Contracting State.

(2) Official records relating to civil status shall be issued in accordance with the legislation of the requested State.

(3) In the implementation of paragraph (1), the diplomatic channel shall be used.

## TITLE V. FINAL PROVISIONS

*Article 26*

Problems arising in connection with the implementation or interpretation of this Convention shall be settled through the diplomatic channel.

*Article 27*

To the extent that the provisions of this Convention are not in accordance with those of The Hague Convention of 17 July 1905 relating to civil procedure,<sup>1</sup> the provisions of this Convention shall apply in the relations between the two Contracting States.

*Article 28*

(1) This Convention shall be ratified.

It shall enter into force on the thirtieth day after the exchange of the instruments of ratification, which shall take place at Berlin.

(2) This Convention shall be concluded for an unlimited period and shall remain valid until the expiry of six months from the day on which one of the Contracting States has informed the other Contracting State of its denunciation in writing through the diplomatic channel.

<sup>1</sup> *British and Foreign State Papers*, vol. 99, p. 990.

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

DONE at Brussels, on 29 November 1982, in duplicate in the French, Dutch and German languages, the three texts being equally authentic.

For the Kingdom of Belgium:

[LEO TINDEMANS]

For the German Democratic  
Republic:

[OSKAR FISCHER]

## EXCHANGE OF LETTERS

### I

Brussels, 29 November 1982

Sir,

I have the honour to refer to the Convention between the Kingdom of Belgium and the German Democratic Republic concerning judicial assistance in civil matters signed today at Brussels and to propose that the two Contracting States should agree as follows:

The two Parties shall apply the provisions of the Convention and, in particular, articles 1, 2, 6, 8, 18 and 25 thereof on the basis of generally recognized principles of international law, including the sovereign right of each State to determine the conditions for the acquisition, maintenance or loss of its citizenship.

I request you to confirm your Agreement with the above. I propose that this arrangement should enter into force on the same date as the Convention concerning judicial assistance in civil matters.

[Signed]

LEO TINDEMANS

Mr. Oskar Fischer  
Minister for Foreign Affairs of the German  
Democratic Republic  
Berlin



## II

Brussels, 29 November 1982

Sir,

I have the honour to refer to your letter of 29 November 1982 concerning the Convention between the German Democratic Republic and the Kingdom of Belgium concerning judicial assistance in civil matters, signed today at Brussels, which reads as follows:

*[See letter I]*

I have the honour to inform you that this proposal is acceptable to the Government of the German Democratic Republic and that your letter and my reply shall constitute an agreement which will form an integral part of the Convention between our two States.

Accept, Sir, etc.

*[Signed]*

OSKAR FISCHER

Mr. Leo Tindemans  
Minister for Foreign Affairs of the Kingdom  
of Belgium  
Brussels

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