



ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟΝ
ΤΗΣ ΕΠΙΣΗΜΟΥ ΕΦΗΜΕΡΙΔΟΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
 υπ' Αρ. 1786 τής 2ας ΙΟΥΛΙΟΥ 1982
ΝΟΜΟΘΕΣΙΑ

Ο περί της Συμβάσεως περί της έν τη Άλλοδαπή Έπιδόσεως Δικαστικών και Έτέρων Έγγράφων εις Άστικές και Έμπορικές Υποθέσεις (Κυρωτικός) Νόμος του 1982 εκδίδεται διά δημοσιεύσεως εις την επίσημον έφημερίδα της Κυπριακής Δημοκρατίας συμφώνως τῷ άρθρῳ 52 του Συντάγματος.

Άριθμός 40 του 1982

ΝΟΜΟΣ ΚΥΡΩΝ ΤΗΝ ΣΥΜΒΑΣΙΝ ΠΕΡΙ ΤΗΣ ΕΝ ΤΗ ΑΛΛΟΔΑΠΗ ΕΠΙΔΟΣΕΩΣ ΔΙΚΑΣΤΙΚΩΝ ΚΑΙ ΕΤΕΡΩΝ ΕΓΓΡΑΦΩΝ ΕΙΣ ΑΣΤΙΚΑΣ ΚΑΙ ΕΜΠΟΡΙΚΑΣ ΥΠΟΘΕΣΕΙΣ

Η Βουλή των Άντιπροσώπων ψηφίζει ὡς ἀκολουθως:

1. Ο παρών Νόμος θα αναφέρηται ὡς ὁ περί της Συμβάσεως περί της έν τη Άλλοδαπή Έπιδόσεως Δικαστικών και Έτέρων Έγγράφων εις Άστικές και Έμπορικές Υποθέσεις (Κυρωτικός) Νόμος του 1982. Συνοπτικός τίτλος.

2. Έν τῷ παρόντι Νόμῳ, ἐκτὸς ἐάν ἐκ τοῦ κειμένου προκύπη διάφορος έννοια— Έρμηνεία.

«Σύμβασις» σημαίνει την Σύμβασιν περί της έν τη Άλλοδαπή Έπιδόσεως Δικαστικών και Έτέρων Έγγράφων εις Άστικές και Έμπορικές Υποθέσεις, τής ὁποίας τὸ κείμενον έν τῷ ἀγγλικῷ πρωτοτύπῳ ἐκτίθεται εις τὸ Μέρος I του Πίνακος και έν μεταφράσει εις την ἑλληνικὴν εις τὸ Μέρος II του Πίνακος. Πίναξ Μέρος I Μέρος II

Νοεῖται ὅτι έν περιπτώσει ἀντιθέσεως μεταξύ των δύο κειμένων ὑπερισχύει τὸ εις τὸ Μέρος I του Πίνακος ἐκτιθέμενον κείμενον.

3. Η Σύμβασις, εις την ὁποίαν ἡ προσχώρησις της Κυπριακής Δημοκρατίας ἀπεφασίσθη διά της υπ' ἀριθμόν 19.725 και ἡμερομηνίαν 14ην Νοεμβρίου, 1980, Ἀποφάσεως του Υπουργικοῦ Συμβουλίου, διά του παρόντος Νόμου κυροῦται. Κύρωσις Συμβάσεως.

Π Ι Ν Α Ξ
 ("Αρθρον 2)
 ΜΕΡΟΣ Ι

CONVENTION ON THE SERVICE ABROAD OF JUDICIAL
 AND EXTRAJUDICIAL DOCUMENTS IN CIVIL
 OR COMMERCIAL MATTERS
 (THE HAGUE, 15 November 1965)

The States signatory to the present Convention,

Desiring to create appropriate means to ensure that judicial and extrajudicial documents to be served abroad shall be brought to the notice of the addressee in sufficient time,

Desiring to improve the organisation of mutual judicial assistance for that purpose by simplifying and expediting the procedure,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions :

Article 1

The present Convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad.

This Convention shall not apply where the address of the person to be served with the document is not known.

CHAPTER I
 JUDICIAL DOCUMENTS

Article 2

Each contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other contracting States and to proceed in conformity with the provisions of articles 3 to 6.

Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either—

- (a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory, or

(b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph (b) of the first paragraph of this article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central Authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

That part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another contracting State which are designated by the latter for this purpose.

Each contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with—

(a) the freedom to send judicial documents, by postal channels, directly to persons abroad,

- (b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination,
- (c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by—

- (a) The employment of a judicial officer or of a person competent under the law of the State of destination,
- (b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that—

- (a) The document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory, or
- (b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention,

and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled—

- (a) The document was transmitted by one of the methods provided for in this Convention,
- (b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document,
- (c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled—

- (a) The defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal, and
- (b) the defendant has disclosed a *prima facie* defence to the action on the merits.

An application for relief may be filed only within a reasonable time after the defendant has knowledge of the judgment.

Each contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

This article shall not apply to judgments concerning status or capacity of persons.

CHAPTER II EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a contracting State may be transmitted for the purpose of service in another contracting State by the methods and under the provisions of the present Convention.

CHAPTER III GENERAL CLAUSES

Article 18

Each contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence.

The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

Federal States shall be free to designate more than one Central Authority.