



ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟ
ΤΗΣ ΕΠΙΣΗΜΗΣ ΕΦΗΜΕΡΙΔΑΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
Αρ. 3386 της 4ης ΦΕΒΡΟΥΑΡΙΟΥ 2000
ΝΟΜΟΘΕΣΙΑ

ΜΕΡΟΣ ΙΙΙ

Ο περί της Σύμβασης Αναφορικά με την Πολιτική Δικονομία (Κυρωτικός) Νόμος του 2000 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 3(III) του 2000

**ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΗ ΣΥΜΒΑΣΗ ΑΝΑΦΟΡΙΚΑ
ΜΕ ΤΗΝ ΠΟΛΙΤΙΚΗ ΔΙΚΟΝΟΜΙΑ**

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Σύμβασης Αναφορικά με την Πολιτική Δικονομία (Κυρωτικός) Νόμος του 2000. Συνοπτικός τίτλος.

2. Στον παρόντα Νόμο- Εξηγεία.

«Σύμβαση σημαίνει τη Σύμβαση αναφορικά με την Πολιτική Δικονομία, η οποία έγινε στη Χάγη την 1η Μαρτίου 1954, της οποίας το κείμενο στο αγγλικό πρωτότυπο παρατίθεται στο Μέρος Ι του Πίνακα και σε ελληνική μετάφραση στο Μέρος ΙΙ του Πίνακα: Πίνακας.
Μέρος Ι
Μέρος ΙΙ.

Νοείται ότι σε περίπτωση διαφοράς μεταξύ του κειμένου του Μέρους Ι και του κειμένου του Μέρους ΙΙ του Πίνακα, υπερισχύει το κείμενο που παρατίθεται στο Μέρος Ι αυτού.

3. Με τον παρόντα Νόμο κυρώνεται η Σύμβαση, στην οποία η προσχώρηση από την Κυπριακή Δημοκρατία αποφασίστηκε από το Υπουργικό Συμβούλιο με Απόφασή του με Αρ. 50.833 και ημερομηνία 17.12.1999, υπό την αίρεση της επιφύλαξης που εκτίθεται στην Αγγλική στο τέλος του Μέρους Ι του Πίνακα και στην Ελληνική στο τέλος του Μέρους ΙΙ αυτού. Κύρωση της Σύμβασης.

4. Το Υπουργείο Δικαιοσύνης και Δημοσίας Τάξεως ορίζεται ως η Αρμόδια Αρχή για σκοπούς εφαρμογής των διατάξεων της Σύμβασης. Ορισμός Αρχής.

ΠΙΝΑΚΑΣ
(άρθρα 2 και 3)

ΜΕΡΟΣ Ι

(TRANSLATION¹ — TRADUCTION²)

No. 4173. CONVENTION³ RELATING TO CIVIL PROCEDURE,
DONE AT THE HAGUE, ON 1 MARCH 1954

The Signatories of this Convention,
Desiring, in the light of experience, to improve the Convention of 17th July,
1905 relating to civil procedure;

Have resolved to conclude a new Convention for this purpose and have
agreed upon the following provisions.

I. SERVICE OF WRITS AND EXTRA-JUDICIAL DOCUMENTS

Article 1

In civil or commercial matters, the service of documents on persons abroad shall be effected in the contracting States at the request of the Consul of the requesting State, such request being addressed to the authority designated by the requested State. The request, specifying the authority from which the document transmitted emanates, the names and capacity of the parties, the address of the addressee, and the nature of the document in question, must be drawn up in the language of the requested authority. That authority shall transmit to the consul a certificate showing that the document has been served or giving the reason why it could not be served.

Any difficulties arising in connection with the request of the consul shall be settled through diplomatic channels.

Each contracting State may declare, in a communication to the other contracting States, that it desires that requests for the service of documents in its territory, containing the items mentioned in paragraph 1, be addressed to it through the diplomatic channel.

Nothing in the foregoing provisions shall prevent two contracting States from agreeing to permit direct communication between their respective authorities.

Article 2

Service shall be effected through the authority competent under the laws of the requested State. Except in the cases specified in Article 3, that authority may limit the act of serving to delivery of the document to an addressee who will accept it voluntarily.

Article 3

The request shall be accompanied by two copies of the document to be served.

If the document to be served is drawn up either in the language of the requested authority or in the language agreed between the two States concerned, or if it is accompanied by a translation in one of these languages, the requested authority, should a desire to that effect be expressed in the request, shall cause the document to be served in the manner prescribed in such cases by its domestic legislation, or in a special manner, provided this does not conflict with such legislation. If no such desire is expressed, the requested authority shall first attempt to serve the document in the manner prescribed in Article 2.

In the absence of agreement to the contrary, the translation referred to in the preceding paragraph shall be certified as accurate by the diplomatic or consular agent of the requesting State or by a sworn translator of the requested State.

Article 4

Service in accordance with Articles 1, 2 and 3 may be refused only if the State in whose territory it is to be effected deems it likely to prejudice its sovereignty or security.

Article 5

Proof of service shall be given either by a dated authenticated receipt from the addressee or by an attestation by the authority of the requested State, stating that the document has been served and specifying the manner and the date of service.

The receipt or attestation must be written on one of the copies or be attached thereto.

Article 6

The provisions of the preceding articles shall be without prejudice to:

1. The right to mail documents direct to interested parties who are abroad.
2. The right of interested parties to have documents served directly through law officials or other competent officials of the country of destination.
3. The right of each State to have documents addressed to persons abroad served directly through its diplomatic or consular agents.

In each of the above cases the right in question shall be deemed to exist only if it is recognised in Conventions between the States concerned or if, in default of such Conventions, the State in whose territory service is to be effected does not object. This State may not object when, in the cases mentioned in paragraph 1, sub-paragraph 3, the document is to be served on a national of the requesting State without duress.

Article 7

Service of documents shall not give rise to reimbursement of fees or costs of any kind.

However, in the absence of agreement to the contrary, the requested State shall have the right to require of the requesting State reimbursement of costs incurred by the intervention of a law officer or by the use of a special form in the cases mentioned in Article 3.

II. LETTERS ROGATORY

Article 8

In civil or commercial matters, the judicial authority of one contracting State may, in conformity with the provisions of its legislation, communicate by letter rogatory with the competent authority of another contracting State, in order to request that it carry out, within its limits of its jurisdiction, either an investigation or some other form of judicial act.

Article 9

Letters rogatory shall be transmitted by the consul of the requesting State to the authority designated by the requested State. That authority shall transmit to the consul a document attesting to the execution of the letter rogatory or stating what has prevented such execution.

Any difficulties which may arise in connection with such transmission shall be settled through diplomatic channels.

Any contracting State may declare, in a communication to the other contracting States, its desire that letters rogatory to be executed in its territory be transmitted to it through diplomatic channels.

Nothing in the foregoing provisions shall prevent two contracting States from agreeing to permit direct transmission of letters rogatory between their respective authorities.

Article 10

In the absence of agreement to the contrary, a letter rogatory must be drawn up either in the language of the requested authority or in the language agreed between the two States concerned, or it must be accompanied by a translation made in one of these languages and certified as accurate by a diplomatic or consular agent of the requesting State or by a sworn translator of the requested State.

Article 11

The judicial authority to which a letter rogatory is addressed must comply therewith, employing the same means of coercion as it would when carrying out a commission for the authorities of the requested State or a request made for such purpose by an interested party. Such coercion shall not necessarily be employed if the appearance of the parties in the case is involved.

The requesting authority shall, if it so requires, be informed of the date and place where the measure requested is to be carried out, so that the party concerned may be present.

The execution of a letter rogatory may be refused only if:

1. the authenticity of the document is not established;
2. in the requested State, execution of the letter rogatory does not fall within the powers of the Bench;
3. the State in whose territory execution should be effected deems it likely to be prejudicial to its sovereignty or security.

Article 12

Should the requested authority have no jurisdiction in the matter, the letter rogatory shall automatically be transmitted to the competent judicial authority of the same State, in accordance with the rules laid down in its legislation.

Article 13

In all cases where a letter rogatory is not executed by the requested authority the latter shall immediately so inform the requesting authority, stating, as regards

Article 11, the reasons why execution of the letter rogatory has been refused, and, as regards Article 12, the authority to which the letter has been transmitted.

Article 14

The judicial authority which executes a letter rogatory shall apply the laws of its country in respect of the formalities to be observed.

Nevertheless, should the requesting authority request that a special formality be observed, this shall be done, provided that such formality does not conflict with the legislation of the requested State.

Article 15

The provisions of the foregoing Articles shall not preclude the right of each State to have letters rogatory executed directly by its diplomatic or consular agents, if Conventions between the States concerned so permit or if the State in whose territory the letter rogatory is to be executed does not object.

Article 16

The execution of letters rogatory shall not give rise to reimbursement of fees or costs of any kind.

However, in the absence of agreement to the contrary, the requested State shall have the right to require of the requesting State reimbursement of compensation paid to witnesses or experts, as well as of costs incurred by the enforced intervention of a law officer, because the witnesses would not appear of their own free will, or expenses arising from the possible application of Article 14, paragraph 2.

III. SECURITY FOR COSTS AND PENALTIES BY FOREIGN PLAINTIFFS ("CAUTIO JUDICATUM SOLVI")

Article 17

No security or deposit of any kind may be imposed, by reason of their status as foreigners or of the absence of domicile or residence in the country, upon nationals of one of the contracting States who are domiciled in one of such States and are plaintiffs or third parties before the courts of another such State.

The same rule shall apply to any payment required of plaintiffs or third parties as security for court costs.