

No. 9527

**FRANCE
and
SAN MARINO**

Convention concerning reciprocal legal assistance in civil, commercial and criminal matters and the reciprocal enforcement of judgements in civil and commercial matters. Signed at Paris on 25 May 1967

Authentic text: French.

Registered by France on 28 April 1969.

**FRANCE
et
SAINT-MARIN**

Convention relative à l'aide mutuelle judiciaire, en matière civile, commerciale et pénale, et à l'exequatur des jugements, en matière civile et commerciale. Signée à Paris le 25 mai 1967

Texte authentique: français.

Enregistré par la France le 28 avril 1969.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE
FRENCH REPUBLIC AND THE GOVERNMENT OF THE
REPUBLIC OF SAN MARINO CONCERNING RECIPRO-
CAL LEGAL ASSISTANCE IN CIVIL, COMMERCIAL
AND CRIMINAL MATTERS AND THE RECIPROCAL
ENFORCEMENT OF JUDGEMENTS IN CIVIL AND
COMMERCIAL MATTERS

The Government of the French Republic and the Government of the Republic of San Marino, desiring to regulate questions relating to reciprocal legal assistance in civil, commercial and criminal matters and also to provide for the reciprocal enforcement of judgements in civil and commercial matters, have agreed as follows :

PART I

RECIPROCAL LEGAL ASSISTANCE IN CIVIL, COMMERCIAL
AND CRIMINAL MATTERS

Chapter 1

PRELIMINARY PROVISION

Article 1

The Contracting Parties undertake to render each other legal assistance in any criminal matter which the Party applied to does not consider to be of a political nature.

Chapter 2

ACCESS TO THE COURTS

Article 2

Nationals of each Contracting Party shall, in the territory of the other Party, have free and unimpeded access to the administrative and judicial courts to prosecute and protect their rights and interests. In particular, they shall not be required to offer security for costs, or to pay any deposit of any description, on the ground that they are aliens or that they are not domiciled or resident in the country.

¹ Came into force on 19 February 1969, i.e., two months after the date of the last of the communications by which the Contracting Parties notified each other of the accomplishment of the constitutional procedures required to that effect, in accordance with article 56.

The foregoing paragraph shall, subject to the provisions of public policy in the country in which the proceedings are instituted, apply to bodies corporate constituted or authorized in accordance with the laws of either of the two countries.

Chapter 3

LEGAL ASSISTANCE

Article 3

Nationals of each Contracting Party shall, in the territory of the other Party, be entitled to the benefits of legal assistance under the same conditions as nationals of the latter Party, provided that they comply with the law of the country in which assistance is applied for.

Article 4

The necessary documents shall be issued to the applicant by the authorities of his habitual place of residence if he is resident in the territory of one of the Contracting Parties. If the applicant is resident in a third country, the documents shall be issued by the consul of his country having competence in respect of his place of residence.

If the person concerned is resident in the country in which the application is made, information may be obtained from the authorities of the country of which he is a national.

Chapter 4

TRANSMITTAL AND SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS

Article 5

In civil and commercial matters, and also in criminal matters, judicial and extra-judicial documents which are to be served in the territory of one of the Contracting Parties shall be transmitted directly between the Ministry of Justice of the French Republic and the Secretariat of State for Foreign Affairs of the Republic of San Marino.

The provisions of the foregoing paragraph shall be without prejudice to the right of the Contracting Parties to cause judicial and extra-judicial documents addressed to their nationals to be served directly by their respective consuls. 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 6

In civil and commercial matters, the letter of transmittal or covering note shall be drafted in the language of the applicant authority and shall contain the following information :

- the designation of the authority issuing the document ;
- the nature of the document in question ;
- the names and status of the parties ;
- the name and address of the addressee ; and
- in criminal matters, the definition of the offence.

Article 7

If the authority applied to does not have jurisdiction, it shall of its own motion transmit the application to the authority having jurisdiction, and shall immediately notify the applicant authority accordingly.

Article 8

The authority applied to shall confine itself to causing the document to be served on the addressee. Confirmation of service shall be given by means of a receipt dated and signed by the addressee, or a certificate from the authority applied to stating that service has been effected and indicating the manner of service. Such receipt or certificate shall be sent immediately to the applicant authority.

If the addressee refuses to accept the document, the authority applied to shall return it forthwith to the applicant authority, stating the reasons why service could not be effected.

Certification of the addressee's refusal to accept the document shall be deemed to be equivalent to service of the document.

Article 9

No charge shall be made for the service of judicial and extra-judicial documents.

Article 10

In civil and commercial matters, the provisions of the foregoing articles shall be without prejudice to the right of interested parties residing in the territory of either of the Contracting Parties to cause documents to be served in either of the two countries, on persons residing in France by law officers and on persons residing in San Marino by the *Cursore*.

Chapter 5

TRANSMISSION AND EXECUTION OF APPLICATIONS FOR LEGAL ASSISTANCE

Article 11

In civil and commercial matters, and also in criminal matters, applications for legal assistance which are to be executed in the territory of one of the Contracting Parties shall be made and executed by the judicial authorities.

They shall be transmitted directly between the Ministry of Justice of the French Republic and the Secretariat of State for Foreign Affairs of the Republic of San Marino.

In urgent cases, applications for legal assistance may be addressed directly to the public prosecutor's department (*Parquet*) of the authority having jurisdiction in the State applied to, by the public prosecutor's department of the authority having jurisdiction in the applicant State.

The provisions of this article shall be without prejudice to the right of the Contracting Parties to cause their diplomatic and consular representatives to execute directly applications for the interrogation of their own nationals. Where there is a conflict between the legislation of the two countries, the nationality of the person whose interrogation is applied for shall be determined by the law of the country in which the application is to be executed.

Article 12

If the authority applied to does not have jurisdiction, it shall of its own motion transmit the application for legal assistance to the authority having jurisdiction, and shall immediately notify the applicant authority accordingly.

Article 13

The authority applied to may refuse to execute an application for legal assistance if, under the law of its country, it is not competent to do so or if the action requested is likely to be prejudicial to the sovereignty, security or public order of the country in which execution is sought.

Article 14

Persons from whom evidence has been applied for shall be requested to appear by simple administrative notification. If they refuse to appear in answer to the notification, the authority applied to shall use the measures of compulsion prescribed by the law of its country.