

No. 32198

**MEXICO
and
FRANCE**

Convention concerning judicial assistance in criminal matters. Signed at Mexico City on 27 January 1994

Authentic texts: Spanish and French.

Registered by Mexico on 24 October 1995.

**MEXIQUE
et
FRANCE**

Convention d'entraide judiciaire en matière pénale. Signée à Mexico le 27 janvier 1994

Textes authentiques : espagnol et français.

Enregistrée par le Mexique le 24 octobre 1995.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNITED MEXICAN STATES AND THE GOVERNMENT OF THE FRENCH REPUBLIC CONCERNING JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United Mexican States and
The Government of the French Republic,
Wishing to establish more effective cooperation in the area of judicial assistance,
Have agreed on the following provisions:

PART I

GENERAL PROVISIONS

Article 1

1. The two States (hereinafter referred to as “the Parties”) undertake to extend to each other, in accordance with the provisions of this Convention, the broadest possible judicial assistance in any proceeding relating to criminal offences the punishment of which is, at the time when assistance is requested, within the competence of the judicial authorities of the requesting Party.

2. This Convention shall not apply to the execution of warrants of arrest and sentences or to military offences that do not constitute offences under ordinary law.

Article 2

In order to ensure the necessary cooperation between the Parties for the provision of the judicial assistance provided for in this Convention, the United Mexican States designates the Office of the Attorney-General of the Republic as its central authority, and the French Republic designates the Ministry of Justice as its central authority. The central authority of the requested State shall comply with the requests expeditiously or, if necessary, shall transmit them to other competent authorities for execution. The competent authorities shall take all necessary measures to comply promptly with such requests, in accordance with article 1.

Article 3

The competent authorities shall be the judicial authorities and the public prosecutor's office in the United Mexican States, and the judicial authorities, including the public prosecutor's office, in the French Republic.

¹ Came into force on 1 March 1995, i.e., the first day of the second month following the date of receipt of the last of the notifications (21 July 1994 and 22 January 1995) by which the Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 27 (1).

Article 4

Judicial assistance may be refused:

(a) If the request relates to any offence which the requested Party regards as a political offence or an offence connected with a political offence;

(b) If the requested Party considers that execution of the request is likely to impair its sovereignty, security, public policy or other essential national interests.

PART II

REQUESTS FOR JUDICIAL ASSISTANCE

Article 5

1. The requested Party shall, in the manner provided for in its legislation, execute requests for judicial assistance relating to a criminal case which are received from the competent authorities of the requesting Party and whose object is the performance of acts pertaining to the investigation of the case or the communication of records, documents or evidence or the restitution to the victim, where applicable and without prejudice to the rights of third parties, of articles or valuables acquired as a result of an offence and found in the possession of the perpetrator thereof.

2. If the requesting Party wishes to have witnesses or experts give testimony under oath, it shall make an express request to that effect and the requested Party shall comply with it unless its national legislation precludes this.

3. The requested Party may transmit only certified true copies or photocopies of the records or documents requested. However, if the requesting Party expressly asks for communication of the originals, its request shall be complied with to the extent possible.

Article 6

If the requesting Party makes an express application to that effect, the requested Party shall inform it of the date and place of execution of the request for assistance. The authorities and individuals authorized by it may be present at the execution if the requested Party so agrees. Such presence shall not authorize the exercise of functions which are exclusively within the competence of the authorities of the requested State.

Article 7

1. The evidence and the originals of records and documents which have been communicated in execution of a request for judicial assistance shall be retained by the requesting Party unless the requested Party asks that they be returned.

2. The requested Party may delay the delivery of evidence, records or documents whose communication is requested if they are required for criminal proceedings in progress.

PART III

DELIVERY OF JUDICIAL DOCUMENTS AND JUDICIAL DECISIONS — APPEARANCE
OF WITNESSES, EXPERTS AND ACCUSED PERSONS*Article 8*

1. The requested Party shall effect the delivery of judicial instruments and judicial decisions transmitted to it for that purpose by the requesting Party.

Such delivery may be effected by a simple handing over of the document or decision to the intended recipient. If the requesting Party makes an express application to that effect, the requested Party shall effect delivery by one of the methods provided for in its legislation for similar notifications or by an *ad hoc* method which is compatible with that legislation.

2. Proof of delivery shall consist either of a receipt dated and signed by the recipient or of a statement issued by the requested Party confirming that delivery has been effected and indicating the method and date thereof. The document showing proof of delivery shall be transmitted forthwith to the requesting Party. At the latter's request, the requested Party shall specify whether delivery was effected in accordance with its laws. If it was not possible to deliver the document, the requested Party shall immediately inform the requesting Party why delivery could not be effected.

3. Summonses shall be transmitted to the requested Party at least 40 days before the date on which the person summoned is to appear.

Article 9

A witness or expert who fails to comply with a summons to appear in court the delivery of which was requested may not be subjected, even where such summons contains injunctions, to any penalty or measure of constraint, unless he subsequently goes, of his own free will, to the territory of the requesting Party and is summoned again in due form.

Article 10

The allowances to be paid and the travel and subsistence expenses to be reimbursed to witnesses and experts by the requesting Party shall be calculated from the place of their residence and shall be at least equal to those provided for under the scales and regulations in force in the country in which the appearance is required.

Article 11

1. If the requesting Party considers that the personal appearance of a witness or an expert before its judicial authorities is particularly necessary, it shall indicate this in the request for delivery of the summons, and the requested Party shall urge the witness or the expert to appear.

The requested Party shall notify the requesting Party of the response of the witness or expert.

2. In the case provided for in paragraph 1, the request or summons must mention the approximate amount of the allowances to be paid and the travel and subsistence expenses to be reimbursed.