

No. 4173

**AUSTRIA, BELGIUM, DENMARK,
FEDERAL REPUBLIC OF GERMANY,
FINLAND, etc.**

**Convention relating to civil procedure. Done at The
Hague, on 1 March 1954**

Official text: French

Registered by the Netherlands on 12 February 1958.

**AUTRICHE, BELGIQUE, DANEMARK,
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE,
FINLANDE, etc.**

**Convention relative à la procédure civile. Faite à La
Haye, le 1^{er} mars 1954**

Texte officiel français.

Enregistrée par les Pays-Bas le 12 février 1958.

[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, 1905⁴ 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.

¹ Translation provided by the Government of the Netherlands.

² Traduction transmise par le Gouvernement des Pays-Bas.

³ In accordance with the terms of article 28, the Convention came into force on 12 April 1957, the sixtieth day following the deposit of the fourth instrument of ratification with the Ministry of Foreign Affairs of the Netherlands. For each signatory State ratifying thereafter, the Convention will come into force on the sixtieth day following the date of the deposit of its instrument of ratification.

The following is a list of the States parties to the Convention, indicating the respective dates of deposit of the instrument of ratification and of entry into force of the Convention :

	<i>Date of deposit</i>		<i>Date of entry into force</i>	
Austria	1 March	1956	12 April	1957
Luxembourg	3 July	1956	12 April	1957
Finland	8 January	1957	12 April	1957
Italy	11 February	1957	12 April	1957
Switzerland	6 May	1957	5 July	1957
Sweden	21 December	1957	19 February	1958

⁴ De Martens, *Nouveau Recueil général de Traités*, troisième série, tome II, p. 243 ; League of Nations, *Treaty Series*, Vol. L, p. 180 ; Vol. LIV, p. 434 ; Vol. XCII, p. 420, and Vol. C, p. 265 ; and United Nations, *Treaty Series*, Vol. 216, p. 432.

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