

CHAPTER 443

LEGAL PROCEDURES (RATIFICATION OF CONVENTIONS) ACT

To enable Malta to ratify the international conventions on the service abroad of judicial and extrajudicial documents, on the taking of evidence abroad in civil or commercial matters, on international access to justice, and on the enforcement of judgments in civil and commercial matters.

1st August, 2006

ACT IV of 2002, as amended by Acts III and XIII of 2004, and III of 2006.

PART I

PRELIMINARY

1. The short title of this Act is the Legal Procedures (Ratification of Conventions) Act.

Short title.

2. In this Act, unless the context otherwise requires -
"central authority" means the Authority appointed under article 4;

Interpretation.
Amended by:
III. 2006.18.

"Contracting State", in relation to any or all the Conventions, and for the purposes of all or any of the Conventions as having the force of law in Malta, means those States, other than Malta, as shall from time to time be specified by the Minister by an order made under article 3;

"Conventions" collectively means The Hague Convention of 1965, The Hague Convention of 1970, and The Hague Convention of 1980;

"The Hague Convention of 1965" means the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters which was signed at The Hague on the 15th November, 1965, the text of which Convention is set out in Part A of the First Schedule to this Act;

"The Hague Convention of 1970" means the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters which was signed at The Hague on 18th March, 1970, the text of which Convention is set out in Part B of the First Schedule to this Act;

"The Hague Convention of 1980" means the Convention on the International Access to Justice which was signed at The Hague on 25th October, 1980, the text of which Convention is set out in Part C of the First Schedule to this Act;

"Malta" has the same meaning assigned to it by article 124 of the Constitution;

"Minister" means the Minister responsible for Justice;

"Non-Contracting State" means any State which is not a

Contracting State;

"prescribed" means prescribed by regulations made by the Minister under this Act.

Contracting States.

3. (1) The Minister may, by order in the Gazette, from time to time specify the Contracting States, other than Malta, for the purposes of any or all the Conventions.

(2) Such order shall specify the date of coming into force of the particular Convention, as between Malta and any State specified in the order.

(3) Where a particular Convention applies, or applies only, to a particular territory or particular territories specified in a declaration made by a Contracting State, references to that State in subarticles (1) and (2) shall be construed as references to that territory or those territories -

- (a) under Article 29 of The Hague Convention of 1965; or
- (b) under Article 40 of The Hague Convention of 1970; or
- (c) under Article 32 or 33 of The Hague Convention of 1980,

as the case may be.

Central authority.
Amended by:
III. 2006.19.

4. (1) The functions of a central authority under the Conventions, hereinafter referred to as "the central authority", shall be discharged by such office, department or authority as may from time to time be designated for the purpose by the Minister by notice in the Gazette.

(2) The central authority shall also have the functions, powers and duties assigned to it by or under this Act.

PART II

THE HAGUE CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS

(5TH NOVEMBER, 1965)

Scope of
applicability.
Amended by:
III. 2004.58.

5. (1) Subject to the provisions of this Part of this Act, the provisions of The Hague Convention of 1965 shall, subject to the reservations contained in Part A of the Second Schedule, have the force of law in Malta, and shall apply in all cases, in civil and commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in a Contracting State other than Malta for service in Malta, as well as where there is occasion to transmit a judicial or extrajudicial document originating in Malta for service in a Contracting State other than Malta.

(2) Documents which fall under the provisions of this Part of this Act, and which originate in Malta, shall be transmitted -

- (a) directly by the central authority, in the case of extrajudicial documents; and
- (b) by the Registrar of Courts, to the central authority, in

the case of judicial documents,

and, subject to the provisions of this Part of this Act, the central authority shall transmit back the decision to the authority concerned.

(3) The Minister may make rules with respect to the charging of fees and the reimbursement of costs incurred by the central authority in the transmission of documents under this Act.

6. (1) For the purposes of Article 3 of The Hague Convention of 1965, the central authority shall be competent to forward requests for service of documents originating in Malta to the central authority of other Contracting States, and any document duly served through the central authority in accordance with The Hague Convention of 1965 shall, for the purpose of the relevant law in Malta, be deemed to be properly served on the person to whom it is addressed.

Central authority to transmit reports for service.

(2) The central authority shall in each case of a request for service made under this Part of this Act determine the costs, if any, occasioned by the services rendered by the central authority and permitted to be charged to the applicant pursuant to Article 12 of The Hague Convention of 1965.

7. Where Malta is the State addressed for the purposes of Article 5 of The Hague Convention of 1965, the central authority shall cause the document to be served by attaching the document to a judicial letter filed in the Registry of the Civil Court, First Hall, to be served on the person addressed together with such document, and such judicial letter and accompanying documents shall be served in accordance with the methods prescribed in -

Method of service.

- (a) article 187(1), (2), (4) or (7) of the [Code of Organization and Civil Procedure](#), as the circumstances of the case may require:

Cap. 12.

Provided that the reference to curators appointed by the court in the said article 187(7) shall not apply; or

- (b) article 187(8) of the [Code of Organization and Civil Procedure](#):

Cap. 12.

Provided that the proviso to the said article 187(8) shall not apply,

as the central authority may deem fit to specify in the circumstances of each case.

8. Pursuant to the declaration made by Malta, and reproduced in Part A of the Second Schedule to this Act, as provided in the second paragraph of Article 8 of The Hague Convention of 1965, no service of documents may be made by any Contracting State upon persons who are in Malta, directly through such State's diplomatic or consular agents, unless the document is to be served upon a national of the State in which the documents originate; such service shall be effected by such method acceptable to the law of the State in which the document originates, provided that such service does not involve any action contrary to the law of Malta.

Declaration and objections.
Amended by:
III. 2004.59.

Applicability of articles.

9. (1) The provisions of articles 10 to 15 shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in a Non-Contracting State for service in Malta.

(2) The provisions of article 16 shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document originating in Malta for service in a Non-Contracting State.

(3) In either case, where the address of the person to be served with the document is not known, the central authority shall refuse to accept the document for transmission.

(4) The provisions of this article shall not be construed as imposing an obligation on the central authority to exercise its functions under any of the provisions of this Part of this Act.

Report for service.

10. (1) The authority or judicial officer or person competent under the law of the Non-Contracting State in which the documents originate, hereinafter referred to as "the applicant", shall forward to the central authority a request for service in the form set out in Part A of the Third Schedule to this Act, without any requirement or equivalent formality, other than is provided in the said Part A of the Third Schedule.

(2) (a) 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 and, if not in the English language, shall be accompanied by two certified translations thereof in the English language.

(b) For the purposes of this subarticle, "certified translation" shall mean a translation certified as a true and correct translation of the original by the diplomatic or consular representative of the Government of Malta in the State in which the request and, or document originates.

Non-compliance.

11. If the central authority considers that the request does not comply with the provisions of article 10, it shall promptly inform the applicant and specify its objections to the request.

Method of service.

12. (1) The document shall be served in accordance with the rules contained in article 5, which shall, *mutatis mutandis*, apply.

(2) That part of the request which contains a summary of the document to be served, shall be served with the document, in the form set out in the Third Schedule to this Act.

Certificate of service.

13. (1) Where service has been effected, the central authority shall complete a certificate of service, which shall be in the English language, in the form set out in Part B of the Third Schedule to this Act.

(2) 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 state such fact and set out the reasons which have prevented service. The certificate shall also

state the particulars of charges for costs for the services rendered by the central authority, determined as provided in article 14.

(3) The certificate shall be forwarded directly by the central authority to the person who has applied for service.

14. The central authority shall, in each case of a request for service made under this Part of this Act, determine the costs occasioned by the services to be rendered by it in effecting service. The central authority shall not proceed with an application unless the costs as so determined are deposited with it or proper security is given for such payment. The costs so determined shall be indicated in the certificate of service referred to in article 13.

Costs of services.

15. (1) Where a request for service complies with the provisions of this Part of this Act, the central authority may refuse to comply therewith only if it deems that compliance would infringe the sovereignty or security of Malta. It may not refuse to comply solely on the ground that, under the internal law of Malta, Malta claims exclusive jurisdiction over the subject matter of the action, or that the internal law of Malta does not permit the action in connection with which the request is made.

Refusal to comply with request for service.

(2) The central authority shall, in case of refusal, promptly inform the applicant and state the reason for the refusal.

16. The central authority shall be competent to receive, process and transmit requests for service and documents originating in Malta to the competent authorities or persons of Non-Contracting States for service in such States -

Transmission of requests for service and documents to Non-Contracting States.

- (a) through the Registrar of Courts, in the case of judicial documents, in accordance with such rules as may be prescribed; and
- (b) through the applicant, in the case of extrajudicial documents, who shall deposit, in the office of the central authority, an authenticated copy of the document in the language of the Contracting State, other than Malta, where the document is to be transmitted.

PART III

THE HAGUE CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS

(18TH MARCH, 1970)

17. Subject to the provisions of this Part of this Act, the provisions of Chapters I and II of The Hague Convention of 1970 shall have the force of law in Malta.

Scope of applicability.

18. (1) The functions of the central authority under The Hague Convention of 1970 shall be discharged by the central authority appointed under article 4, and any letter of request coming from a judicial authority of a Contracting State, made under The Hague Convention of 1970, shall be addressed to the central authority,

Functions and jurisdiction.

which shall transmit the same to the competent court by means of an application.

(2) The First Hall of the Civil Court and, where the witness resides in Gozo, the Court of Magistrates (Gozo) in its superior jurisdiction or any other court which the Minister may by order designate from time to time, shall have jurisdiction to execute letters of request, coming from a judicial authority of a Contracting State, made under The Hague Convention of 1970.

Execution of letters of request.

19. For the purposes of Article 8 of The Hague Convention of 1970, the judicial personnel of the authorities requesting execution of a letter of request made under The Hague Convention of 1970 may, if authorised by the central authority, be present at the execution of the letter of request.

Non-applicability of certain articles. Cap. 12.

20. (1) The provisions of articles 614(2) and (3), 618, 619, 620 and 622(2) of the [Code of Organization and Civil Procedure](#) shall not apply, for Non-Contracting States, in the execution of letters of request sent by the judicial authority of a Contracting State made under The Hague Convention of 1970.

(2) The Minister may, by rules made under this article, set up the procedure to be followed in the case of letters of request made by a Contracting State, other than Malta, for the evidence of a person residing in Malta.

(3) Subject to the provisions of subarticles (1) and (2), the court shall transmit the letter of request, either directly to the central authority of the requesting State or through the central authority of Malta.

Reservation.
Amended by:
III. 2004.60.

21. In conformity with the reservation, made by Malta, in accordance with paragraph 2 of Article 4 of The Hague Convention of 1970, the text of which is reproduced in Part B of the Second Schedule, letters of request transmitted through the central authority shall be made in either one of the official languages of Malta.

PART IV

THE HAGUE CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE

(25TH OCTOBER, 1980)

Scope of applicability.

22. (1) Subject to the following provisions of this article, The Hague Convention of 1980 shall have the force of law in Malta.

(2) Subject to the provisions of articles 23 to 26, and subject to the reservation made thereto by Malta, and reproduced in the Fourth Schedule to this Act, the provisions of Chapter I of The Hague Convention of 1980 shall have the force of law in Malta.

(3) Where the applicant for legal aid resides abroad, there shall be required to be sent to the central authority a certificate, issued by the transmitting authority appointed under Article 4 of The Hague Convention of 1980, confirming that the applicant is so entitled, and the central authority shall, by means of an application,

request the competent court to confirm that the applicant is entitled to legal aid.

(4) Where the applicant resides in Malta, the applicant shall personally request the central authority to apply on his behalf to the central authority abroad, by means of an application together with a certificate, issued by the transmitting authority appointed under Article 4 of The Hague Convention of 1980, showing that the applicant is so entitled to legal aid, under the provisions of The Hague Convention of 1980.

23. The central authority referred to in article 4 shall be competent to receive and to take action on applications for legal aid submitted under Chapter I of The Hague Convention of 1980.

Central authority.

24. (1) Where the central authority is of the opinion that the applicant should not be admitted to the benefit of legal aid, the applicant shall have the right to apply to the Civil Court, First Hall, within seven days of the decision of the central authority having been communicated to the applicant; the Court may -

Jurisdiction.

(a) either give its decree *in camera*; or

(b) give its decree in a public sitting, after hearing the parties,

as to the admission or rejection of the application.

(2) The determination of the Civil Court shall be final.

25. In the case where the applicant is admitted to the benefit of legal aid, the provisions of articles 918 to 926 of the [Code of Organization and Civil Procedure](#) shall apply.

Procedure on admission to legal aid.
Cap. 12.

26. The central authority shall be the transmitting authority for the purposes of Article 5 of The Hague Convention of 1980, and shall have the function of receiving, processing and forwarding applications for legal aid to the appropriate central authority in the requested State.

Transmitting authority.

27. Subject to the provisions of article 28, the provisions of Chapter II of The Hague Convention of 1980 shall have the force of law in Malta.

Scope of applicability.

28. (1) The central authority referred to in article 4 shall discharge the functions specified in Article 16 of The Hague Convention of 1980.

Central authority.

(2) The central authority shall have the power to reach a final decision on applications forwarded to it by transmitting authorities of other Contracting States, or in any other manner, specified in Article 16 of The Hague Convention of 1980, for rendering enforceable orders to which Article 16 of The Hague Convention of 1980 applies, and for the purposes of Chapter II of the said Convention, the central authority shall also be the competent authority to determine such applications.

(3) For the purposes of rendering the determination of the applications referred to in subarticle (2) an executive title, it shall be sufficient for the purposes of this Act for the applicant or the central authority -

- (a) to request repayment of the security for costs; or
- (b) to request an order for costs,

by judicial letter filed in the Registry of the Civil Court, First Hall, accompanied by an official copy of the decision of the competent authority.

Cap. 12.

(4) Subject to the provisions of subarticle (3), the determination shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the [Code of Organization and Civil Procedure](#).

(5) There shall be no right of appeal against the decision of the competent authority in the cases referred to in this article.

Part V - articles 29 to 40 (both inclusive) - deleted by Act III. 2006.20.

PART VI

GENERAL PROVISIONS

Regulations.

41. (1) The Minister may make regulations prescribing anything that in virtue of this Act is required to be prescribed and generally for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subarticle (1), regulations may, in particular, be made to establish the criteria to be applied by the central authority in determining the costs incurred by it in accordance with the provisions of article 14.

(3) Without prejudice to the generality of subarticle (1), such regulations may, *mutatis mutandis*, make provision with respect to the procedure on applications to a court under any provision of Part V of this Act and with respect to the documents and information to be furnished and the notices to be given in connection with any such application.

Conflict between texts.

42. In the First, Second and Fourth Schedules to this Act, should there be any conflict between the English and the Maltese texts, the English text shall prevail.

Ratification of Conventions.

43. By virtue of this Act, the Government of Malta is hereby authorised to ratify all or any of the Conventions.

FIRST SCHEDULE
(Articles 2 and 42)

*Amended by:
III. 2006.21.*

Part A

**THE HAGUE CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND
EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS**

(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.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with -

- (a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3,
- (b) the language requirements of the third paragraph of Article 5 and Article 7,
- (c) the provisions of the fourth paragraph of Article 5,
- (d) the provisions of the second paragraph of Article 12.

Article 21

Each Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the following -

- (a) the designation of authorities, pursuant to Articles 2 and 18,
- (b) the designation of the authority competent to complete the certificate pursuant to Article 6,
- (c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9.

Each Contracting State shall similarly inform the Ministry, where appropriate, of -

- (a) opposition to the use of methods of transmission pursuant to Articles 8 and 10,
- (b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16,
- (c) all modifications of the above designations, oppositions and declarations.

Article 22

Where Parties to the present Convention are also Parties to one or both of the Conventions on civil procedure signed at The Hague on 17th July 1905, and on 1st March 1954, this Convention shall replace as between them Articles 1 to 7 of the earlier Conventions.

Article 23

The present Convention shall not affect the application of Article 23 of the Convention on civil procedure signed at The Hague on 17th July 1905, or of Article 24 of the Convention on civil procedure signed at the Hague on 1st March 1954.

These Articles shall, however, apply only if methods of communication, identical to those provided for in these Conventions, are used.

Article 24

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, unless the Parties have otherwise agreed.

Article 25

Without prejudice to the provisions of Articles 22 and 24, the present Convention shall not derogate from Conventions containing provisions on the matters governed by this Convention to which the Contracting States are, or shall become, Parties.

Article 26

The present Convention shall be open for signature by the States represented at the Tenth Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 27

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 26.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 28

Any State not represented at the Tenth Session of the Hague Conference on Private International Law may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 27. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for such a State in the absence of any objection from a State, which has ratified the Convention before such deposit, notified to the Ministry of Foreign Affairs of the Netherlands within a period of six months after the date on which the said Ministry has notified it of such accession.

In the absence of any such objection, the Convention shall enter into force for the acceding State on the first day of the month following the expiration of the last of the periods referred to in the preceding paragraph.

Article 29

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification referred to in the preceding paragraph.

Article 30

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 27, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 31

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States

referred to in Article 26, and to the States which have acceded in accordance with Article 28, of the following -

- (a) the signatures and ratifications referred to in Article 26;
- (b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 27;
- (c) the accessions referred to in Article 28 and the dates on which they take effect;
- (d) the extensions referred to in Article 29 and the dates on which they take effect;
- (e) the designations, oppositions and declarations referred to in Article 21;
- (f) the denunciations referred to in the third paragraph of Article 30.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Tenth Session of the Hague Conference on Private International Law.

FORMS
(REQUEST AND CERTIFICATE)

SUMMARY OF THE DOCUMENT TO BE SERVED
(Annexes provided for Articles 3, 5, 6 and 7)

ANNEX TO THE CONVENTION

Forms

REQUEST FOR SERVICE ABROAD OF
JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the Service Abroad of Judicial and
Extrajudicial Documents in Civil or Commercial Matters,
signed at The Hague, on the 15th of November 1965.

Identity and address
of the applicant

Address of receiving
authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,

(identity and address)

.....
.....

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:

.....
.....

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....

Done at, the

Signature and/or stamp.

* Delete if inappropriate.

Part B**CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN
CIVIL OR COMMERCIAL MATTERS****(18 March, 1970)****Preamble**

The States signatory to the present Convention,

Desiring to facilitate the transmission and execution of Letters of Request and to further the accommodation of the different methods which they use for this purpose,

Desiring to improve mutual judicial co-operation in civil or commercial matters,

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

CHAPTER I**LETTERS OF REQUEST***Article 1*

In civil or commercial matters a judicial authority of a Contracting State may, in accordance with the provisions of the law of that State, request the competent authority of another Contracting State, by means of a Letter of Request, to obtain evidence, or to perform some other judicial act.

A Letter shall not be used to obtain evidence which is not intended for use in judicial proceedings, commenced or contemplated.

The expression "other judicial act" does not cover the service of judicial documents or the issuance of any process by which judgments or orders are executed or enforced, or orders for provisional or protective measures.

Article 2

A Contracting State shall designate a Central Authority which will undertake to receive Letters of Request coming from a judicial authority of another Contracting State and to transmit them to the authority competent to execute them. Each State shall organize the Central Authority in accordance with its own law.

Letters shall be sent to the Central Authority of the State of execution without being transmitted through any other authority of that State.

Article 3

A Letter of Request shall specify -

- (a) the authority requesting its execution and the authority requested to execute it, if known to the requesting authority;
- (b) the names and addresses of the parties to the proceedings and their representatives, if any;
- (c) the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto;

- (d) the evidence to be obtained or other judicial act to be performed.

Where appropriate, the Letter shall specify, *inter alia* -

- (e) the names and addresses of the persons to be examined;
- (f) the questions to be put to the persons to be examined or a statement of the subject-matter about which they are to be examined;
- (g) the documents or other property, real or personal, to be inspected;
- (h) any requirement that the evidence is to be given on oath or affirmation, and any special form to be used;
- (i) any special method or procedure to be followed under Article 9.

A Letter may also mention any information necessary for the application of Article 11.

No legalization or other like formality may be required.

Article 4

A Letter of Request shall be in the language of the authority requested to execute it or be accompanied by a translation into that language.

Nevertheless, a Contracting State shall accept a Letter in either English or French, or a translation into one of these languages, unless it has made the reservation authorized by Article 33.

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept Letters in one of these languages for the whole of its territory, shall, by declaration, specify the language in which the Letter or translation thereof shall be expressed for execution in the specified parts of its territory. In case of failure to comply with this declaration, without justifiable excuse, the costs of translation into the required language shall be borne by the State of origin.

A Contracting State may, by declaration, specify the language or languages other than those referred to in the preceding paragraphs, in which a Letter may be sent to its Central Authority.

Any translation accompanying a Letter shall be certified as correct, either by a diplomatic officer or consular agent or by a sworn translator or by any other person so authorized in either State.

Article 5

If the Central Authority considers that the request does not comply with the provisions of the present Convention, it shall promptly inform the authority of the State of origin which transmitted the Letter of Request, specifying the objections to the Letter.

Article 6

If the authority to whom a Letter of Request has been transmitted is not competent to execute it, the Letter shall be sent forthwith to the authority in the same State which is competent to execute it in accordance with the provisions of its own law.

Article 7

The requesting authority shall, if it so desires, be informed of the time when, and the place where, the proceedings will take place, in order that the parties concerned, and their representatives, if any, may be present. This information shall be sent directly to the parties or their representatives when the authority of the State of origin so requests.

Article 8

A Contracting State may declare that members of the judicial personnel of the requesting authority of another Contracting State may be present at the execution of a Letter of Request. Prior authorization by the competent authority designated by the declaring State may be required.

Article 9

The judicial authority which executes a Letter of Request shall apply its own law as to the methods and procedures to be followed.

However, it will follow a request of the requesting authority that a special method or procedure be followed, unless this is incompatible with the internal law of the State of execution or is impossible of performance by reason of its internal practice and procedure or by reason of practical difficulties.

A Letter of Request shall be executed expeditiously.

Article 10

In executing a Letter of Request the requested authority shall apply the appropriate measures of compulsion in the instances and to the same extent as are provided by its internal law for the execution of orders issued by the authorities of its own country or of requests made by parties in internal proceedings.

Article 11

In the execution of a Letter of Request the person concerned may refuse to give evidence in so far as he has a privilege or duty to refuse to give the evidence -

- (a) under the law of the State of execution; or
- (b) under the law of the State of origin, and the privilege or duty has been specified in the Letter, or, at the instance of the requested authority, has been otherwise confirmed to that authority by the requesting authority.

A Contracting State may declare that, in addition, it will respect privileges and duties existing under the law of States other than the State of origin and the State of execution, to the extent specified in that declaration.

Article 12

The execution of a Letter of Request may be refused only to the extent that -

- (a) in the State of execution the execution of the Letter does not fall within the functions of the judiciary; or
- (b) the State addressed considers that its sovereignty or security would

be prejudiced thereby.

Execution may not be refused solely on the ground that under its internal law the State of execution claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not admit a right of action on it.

Article 13

The documents establishing the execution of the Letter of Request shall be sent by the requested authority to the requesting authority by the same channel which was used by the latter.

In every instance where the Letter is not executed in whole or in part, the requesting authority shall be informed immediately through the same channel and advised of the reasons.

Article 14

The execution of the Letter of Request shall not give rise to any reimbursement of taxes or costs of any nature.

Nevertheless, the State of execution has the right to require the State of origin to reimburse the fees paid to experts and interpreters and the costs occasioned by the use of a special procedure requested by the State of origin under Article 9, paragraph 2.

The requested authority whose law obliges the parties themselves to secure evidence, and which is not able itself to execute the Letter, may, after having obtained the consent of the requesting authority, appoint a suitable person to do so. When seeking this consent the requested authority shall indicate the approximate costs which would result from this procedure. If the requesting authority gives its consent it shall reimburse any costs incurred; without such consent the requesting authority shall not be liable for the costs.

CHAPTER II

TAKING OF EVIDENCE BY DIPLOMATIC OFFICERS, CONSULAR AGENTS AND COMMISSIONERS

Article 15

In civil or commercial matters, a diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, take the evidence without compulsion of nationals of a State which he represents in aid of proceedings commenced in the courts of a State which he represents.

A Contracting State may declare that evidence may be taken by a diplomatic officer or consular agent only if permission to that effect is given upon application made by him or on his behalf to the appropriate authority designated by the declaring State.

Article 16

A diplomatic officer or consular agent of a Contracting State may, in the territory of another Contracting State and within the area where he exercises his functions, also take the evidence, without compulsion, of nationals of the State in which he exercises his functions or of a third State, in aid of proceedings commenced in the

courts of a State which he represents, if -

(a) a competent authority designated by the State in which he exercises his functions has given its permission either generally or in the particular case, and

(b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Article 17

In civil or commercial matters, a person duly appointed as a commissioner for the purpose may, without compulsion, take evidence in the territory of a Contracting State in aid of proceedings commenced in the courts of another Contracting State, if -

(a) a competent authority designated by the State where the evidence is to be taken has given its permission either generally or in the particular case; and

(b) he complies with the conditions which the competent authority has specified in the permission.

A Contracting State may declare that evidence may be taken under this Article without its prior permission.

Article 18

A Contracting State may declare that a diplomatic officer, consular agent or commissioner authorized to take evidence under Articles 15, 16 or 17, may apply to the competent authority designated by the declaring State for appropriate assistance to obtain the evidence by compulsion. The declaration may contain such conditions as the declaring State may see fit to impose.

If the authority grants the application it shall apply any measures of compulsion which are appropriate and are prescribed by its law for use in internal proceedings.

Article 19

The competent authority, in giving the permission referred to in Articles 15, 16 or 17, or in granting the application referred to in Article 18, may lay down such conditions as it deems fit, inter alia, as to the time and place of the taking of the evidence. Similarly it may require that it be given reasonable advance notice of the time, date and place of the taking of the evidence; in such a case a representative of the authority shall be entitled to be present at the taking of the evidence.

Article 20

In the taking of evidence under any Article of this Chapter persons concerned may be legally represented.

Article 21

Where a diplomatic officer, consular agent or commissioner is authorized under Articles 15, 16 or 17 to take evidence -

(a) he may take all kinds of evidence which are not incompatible with the law of the State where the evidence is taken or contrary to any permission granted pursuant to the above Articles, and shall have power within such limits to administer an oath or take an affirmation;

(b) a request to a person to appear or to give evidence shall, unless the recipient is a national of the State where the action is pending, be drawn up in the language of the place where the evidence is taken or be accompanied by a translation into such language;

(c) the request shall inform the person that he may be legally represented and, in any State that has not filed a declaration under Article 18, shall also inform him that he is not compelled to appear or to give evidence;

(d) the evidence may be taken in the manner provided by the law applicable to the court in which the action is pending provided that such manner is not forbidden by the law of the State where the evidence is taken;

(e) a person requested to give evidence may invoke the privileges and duties to refuse to give the evidence contained in Article 11.

Article 22

The fact that an attempt to take evidence under the procedure laid down in this Chapter has failed, owing to the refusal of a person to give evidence, shall not prevent an application being subsequently made to take the evidence in accordance with Chapter I.

CHAPTER III**GENERAL CLAUSES***Article 23*

A Contracting State may at the time of signature, ratification or accession, declare that it will not execute Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in Common Law countries.

Article 24

A Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence. However, Letters of Request may in all cases be sent to the Central Authority.

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

Article 25

A Contracting State which has more than one legal system may designate the authorities of one of such systems, which shall have exclusive competence to execute Letters of Request pursuant to this Convention.

Article 26

A Contracting State, if required to do so because of constitutional limitations, may request the reimbursement by the State of origin of fees and costs, in connection with the execution of Letters of Request, for the service of process necessary to compel the appearance of a person to give evidence, the costs of attendance of such persons, and the cost of any transcript of the evidence.

Where a State has made a request pursuant to the above paragraph, any other Contracting State may request from that State the reimbursement of similar fees and costs.

Article 27

The provisions of the present Convention shall not prevent a Contracting State from -

- (a) declaring that Letters of Request may be transmitted to its judicial authorities through channels other than those provided for in Article 2;
- (b) permitting, by internal law or practice, any act provided for in this Convention to be performed upon less restrictive conditions;
- (c) permitting, by internal law or practice, methods of taking evidence other than those provided for in this Convention.

Article 28

The present Convention shall not prevent an agreement between any two or more Contracting States to derogate from -

- (a) the provisions of Article 2 with respect to methods of transmitting Letters of Request;
- (b) the provisions of Article 4 with respect to the languages which may be used;
- (c) the provisions of Article 8 with respect to the presence of judicial personnel at the execution of Letters;
- (d) the provisions of Article 11 with respect to the privileges and duties of witnesses to refuse to give evidence;
- (e) the provisions of Article 13 with respect to the methods of returning executed Letters to the requesting authority;
- (f) the provisions of Article 14 with respect to fees and costs;
- (g) the provisions of Chapter II.

Article 29

Between Parties to the present Convention who are also Parties to one or both of the Conventions on Civil Procedure signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 8 - 16 of the earlier Conventions.

Article 30

The present Convention shall not affect the application of Article 23 of the Convention of 1905, or of Article 24 of the Convention of 1954.

Article 31

Supplementary Agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention unless the Parties have otherwise agreed.

Article 32

Without prejudice to the provisions of Articles 29 and 31, the present Convention shall not derogate from conventions containing provisions on the matters covered by this Convention to which the Contracting States are, or shall become Parties.

Article 33

A State may, at the time of signature, ratification or accession exclude, in whole or in part, the application of the provisions of paragraph 2 of Article 4 and of Chapter II. No other reservation shall be permitted.

Each Contracting State may at any time withdraw a reservation it has made; the reservation shall cease to have effect on the sixtieth day after notification of the withdrawal.

When a State has made a reservation, any other State affected thereby may apply the same rule against the reserving State.

Article 34

A State may at any time withdraw or modify a declaration.

Article 35

A Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Netherlands of the designation of authorities, pursuant to Articles 2, 8, 24 and 25.

A Contracting State shall likewise inform the Ministry, where appropriate, of the following -

- (a) the designation of the authorities to whom notice must be given, whose permission may be required, and whose assistance may be invoked in the taking of evidence by diplomatic officers and consular agents, pursuant to Articles 15, 16 and 18 respectively;
- (b) the designation of the authorities whose permission may be required in the taking of evidence by commissioners pursuant to Article 17 and of those who may grant the assistance provided for in Article 18;
- (c) declarations pursuant to Articles 4, 8, 11, 15, 16, 17, 18, 23 and 27;
- (d) any withdrawal or modification of the above designations and

declarations;

- (e) the withdrawal of any reservation.

Article 36

Any difficulties which may arise between Contracting States in connection with the operation of this Convention shall be settled through diplomatic channels.

Article 37

The present Convention shall be open for signature by the States represented at the Eleventh Session of the Hague Conference on Private International Law.

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

Article 38

The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 37.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

Article 39

Any State not represented at the Eleventh Session of the Hague Conference on Private International Law which is a Member of this Conference or of the United Nations or of a specialized agency of that Organization, or a Party to the Statute of the International Court of Justice may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 38.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for a State acceding to it on the sixtieth day after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the sixtieth day after the deposit of the declaration of acceptance.

Article 40

Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

The Convention shall enter into force for the territories mentioned in such an extension on the sixtieth day after the notification indicated in the preceding paragraph.

Article 41

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 38, even for States which have ratified it or acceded to it subsequently.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 42

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 37, and to the States which have acceded in accordance with Article 39, of the following -

- (a) the signatures and ratifications referred to in Article 37;
- (b) the date on which the present Convention enters into force in accordance with the first paragraph of Article 38;
- (c) the accessions referred to in Article 39 and the dates on which they take effect;
- (d) the extensions referred to in Article 40 and the dates on which they take effect;
- (e) the designations, reservations and declarations referred to in Articles 33 and 35;
- (f) the denunciations referred to in the third paragraph of Article 41.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Convention.

Done at The Hague, on the 18th day of March, 1970, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Netherlands, and of which a certified copy shall be sent, through the diplomatic channel, to each of the States represented at the Eleventh Session of the Hague Conference on Private International Law.

Part C**THE HAGUE CONVENTION ON INTERNATIONAL ACCESS TO JUSTICE****(25 October, 1980)**

The States signatory to this Convention,
Desiring to facilitate international access to justice,
Have resolved to conclude a Convention for this purpose and have agreed upon the following provisions -

CHAPTER I**LEGAL AID***Article 1*

Nationals of any Contracting State and persons habitually resident in any Contracting State shall be entitled to legal aid for court proceedings in civil and commercial matters in each Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

Persons to whom paragraph 1 does not apply, but who formerly had their habitual residence in a Contracting State in which court proceedings are to be or have been commenced, shall nevertheless be entitled to legal aid as provided by paragraph 1 if the cause of action arose out of their former habitual residence in that State.

In States where legal aid is provided in administrative, social or fiscal matters, the provisions of this Article shall apply to cases brought before the courts or tribunals competent in such matters.

Article 2

Article 1 shall apply to legal advice provided the person seeking advice is present in the State where advice is sought.

Article 3

Each Contracting State shall designate a Central Authority to receive, and take action on, applications for legal aid submitted under this Convention.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the application to whichever other Central Authority in the same Contracting State is competent to do so.

Article 4

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding applications for legal aid to the appropriate Central Authority in the requested State.

Applications for legal aid shall be transmitted, without the intervention of any other authority, in the form of the model annexed to this Convention.

Nothing in this Article shall prevent an application from being submitted through

diplomatic channels.

Article 5

Where the applicant for legal aid is not present in the requested State, he may submit his application to a transmitting authority in the Contracting State where he has his habitual residence, without prejudice to any other means open to him of submitting his application to the competent authority in the requested State.

The application shall be in the form of the model annexed to this Convention and shall be accompanied by any necessary documents, without prejudice to the right of the requested State to require further information or documents in appropriate cases.

Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 6

The transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application. It shall ensure that formal requirements are met.

If it appears to the transmitting authority that the application is manifestly unfounded, it may refuse to transmit the application.

It shall assist the applicant in obtaining without charge a translation of the documents where such assistance is appropriate.

It shall reply to requests for further information from the receiving Central Authority in the requested State.

Article 7

The application, the supporting documents and any communications in response to requests for further information shall be in the official language or in one of the official languages of the requested State or be accompanied by a translation into one of those languages.

However, where in the requesting State it is not feasible to obtain a translation into the language of the requested State, the latter shall accept the documents in either English or French, or the documents accompanied by a translation into one of those languages.

Communications emanating from the receiving Central Authority may be drawn up in the official language or one of the official languages of the requested State or in English or French. However, where the application forwarded by the transmitting authority is in either English or French, or is accompanied by a translation into one of those languages, communications emanating from the receiving Central Authority shall also be in one of those languages.

The costs of translation arising from the application of the preceding paragraphs shall be borne by the requesting State, except that any translations made in the requested State shall not give rise to any claim for reimbursement on the part of that State.

Article 8

The receiving Central Authority shall determine the application or shall take such steps as are necessary to obtain its determination by a competent authority in the

requested State.

The receiving Central Authority shall transmit requests for further information to the transmitting authority and shall inform it of any difficulty relating to the examination of the application and of the decision taken.

Article 9

Where the applicant for legal aid does not reside in a Contracting State, he may submit his application through consular channels, without prejudice to any other means open to him of submitting his application to the competent authority in the requested State.

Any Contracting State may declare that its receiving Central Authority will accept applications submitted by other channels or methods.

Article 10

All documents forwarded under this Chapter shall be exempt from legalization or any analogous formality.

Article 11

No charges shall be made for the transmission, reception or determination of applications for legal aid under this Chapter.

Article 12

Applications for legal aid shall be handled expeditiously.

Article 13

Where legal aid has been granted in accordance with Article 1, service of documents in any other Contracting State in pursuance of the legally aided person's proceedings shall not give rise to any charges regardless of the manner in which service is effected. The same applies to Letters of Request and social enquiry reports, except for fees paid to experts and interpreters.

Where a person has received legal aid in accordance with Article 1 for proceedings in a Contracting State and a decision has been given in those proceedings, he shall, without any further examination of his circumstances, be entitled to legal aid in any other Contracting State in which he seeks to secure the recognition or enforcement of that decision.

CHAPTER II

SECURITY FOR COSTS AND ENFORCEABILITY OF ORDERS FOR COSTS

Article 14

No security, bond or deposit of any kind may be required, by reason only of their foreign nationality or of their not being domiciled or resident in the State in which proceedings are commenced, from persons (including legal persons) habitually resident in a Contracting State who are plaintiffs or parties intervening in proceedings before the courts or tribunals of another Contracting State.

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

Article 15

An order for payment of costs and expenses of proceedings, made in one of the Contracting States against any person exempt from requirements as to security, bond, deposit or payment by virtue of Article 14 or of the law of the State where the proceedings have been commenced shall, on the application of the person entitled to the benefit of the order, be rendered enforceable without charge in any other Contracting State.

Article 16

Each Contracting State shall designate one or more transmitting authorities for the purpose of forwarding to the appropriate Central Authority in the requested State applications for rendering enforceable orders to which Article 15 applies.

Each Contracting State shall designate a Central Authority to receive such applications and to take the appropriate steps to ensure that a final decision on them is reached.

Federal States and States which have more than one legal system may designate more than one Central Authority. If the Central Authority to which an application is submitted is not competent to deal with it, it shall forward the application to whichever other Central Authority in the requested State is competent to do so.

Applications under this Article shall be transmitted without the intervention of any other authority, without prejudice to an application being transmitted through diplomatic channels.

Nothing in this Article shall prevent applications from being made directly by the person entitled to the benefit of the order unless the requested State has declared that it will not accept applications made in this manner.

Article 17

Every application under Article 15 shall be accompanied by -

- (a) a true copy of the relevant part of the decision showing the names and capacities of the parties and of the order for payment of costs or expenses;
- (b) any document necessary to prove that the decision is no longer subject to the ordinary forms of review in the State of origin and that it is enforceable there;
- (c) a translation, certified as true, of the above-mentioned documents into the language of the requested State, if they are not in that language.

The application shall be determined without a hearing and the competent authority in the requested State shall be limited to examining whether the required documents have been produced. If so requested by the applicant, that authority shall determine the amount of the costs of attestation, translation and certification, which shall be treated as costs and expenses of the proceedings. No legalization or analogous formality may be required.

There shall be no right of appeal against the decision of the competent authority except in accordance with the law of the requested State.

CHAPTER III

COPIES OF ENTRIES AND DECISIONS

Article 18

Nationals of any Contracting State and persons habitually resident in any Contracting State may obtain in any other Contracting State, on the same terms and conditions as its nationals, copies of or extracts from entries in public registers and decisions relating to civil or commercial matters and may have such documents legalized, where necessary.

CHAPTER IV

PHYSICAL DETENTION AND SAFE-CONDUCT

Article 19

Arrest and detention, whether as a means of enforcement or simply as a precautionary measure, shall not, in civil or commercial matters, be employed against nationals of a Contracting State or persons habitually resident in a Contracting State in circumstances where they cannot be employed against nationals of the arresting and detaining State. Any fact which may be invoked by a national habitually resident in such State to obtain release from arrest or detention may be invoked with the same effect by a national of a Contracting State or a person habitually resident in a Contracting State even if the fact occurred abroad.

Article 20

A person who is a national of or habitually resident in a Contracting State and who is summoned by name by a court or tribunal in another Contracting State, or by a party with the leave of the court or tribunal, in order to appear as a witness or expert in proceedings in that State shall not be liable to prosecution or detention, or subjected to any other restriction on his personal liberty, in the territory of that State in respect of any act or conviction occurring before his arrival in that State.

The immunity provided for in the preceding paragraph shall commence seven days before the date fixed for the hearing of the witness or expert and shall cease when the witness or expert having had, for a period of seven consecutive days from the date when he was informed by the judicial authorities that his presence is no longer required, an opportunity of leaving has nevertheless remained in the territory, or having left it, has returned voluntarily.

CHAPTER V

GENERAL PROVISIONS

Article 21

Without prejudice to the provisions of Article 22, nothing in this Convention shall be construed as limiting any rights in respect of matters governed by this Convention which may be conferred upon a person under the law of any Contracting State or under any other convention to which it is, or becomes, a party.

Article 22

Between Parties to this Convention who are also Parties to one or both of the Conventions on civil procedure signed at The Hague on the 17th of July 1905 and the 1st of March 1954, this Convention shall replace Articles 17 to 24 of the Convention of 1905 or Articles 17 to 26 of the Convention of 1954 even if the reservation provided for under paragraph 2 (c) of Article 28 of this Convention has been made.

Article 23

Supplementary agreements between Parties to the Conventions of 1905 and 1954 shall be considered as equally applicable to the present Convention, to the extent that they are compatible therewith, unless the Parties otherwise agree.

Article 24

A Contracting State may by declaration specify a language or languages other than those referred to in Articles 7 and 17 in which documents sent to its Central Authority may be drawn up or translated.

Article 25

A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents referred to in Articles 7 and 17 drawn up in one of those languages shall by declaration specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.

Article 26

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify that declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

Article 27

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance, or approval of, or accession to this Convention, or its making of any declaration under Article 26 shall carry no implication as to the internal distribution of powers within that State.

Article 28

Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude the application of Article 1 in the case of persons who are not nationals of a Contracting State but who have their habitual residence in a Contracting State other than the reserving State or formerly had their habitual residence in the reserving State, if there is no reciprocity of treatment between the reserving State and the State of which the applicants for legal

aid are nationals.

Any Contracting State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right to exclude -

- (a) the use of English or French, or both, under paragraph 2 of Article 7;
- (b) the application of paragraph 2 of Article 13;
- (c) the application of Chapter II;
- (d) the application of Article 20.

Where a State has made a reservation -

- (e) under paragraph 2 (a) of this Article, excluding the use of both English and French, any other State affected thereby may apply the same rule against the reserving State;
- (f) under paragraph 2 (b) of this Article, any other State may refuse to apply paragraph 2 of Article 13 to persons who are nationals of or habitually resident in the reserving State;
- (g) under paragraph 2 (c) of this Article, any other State may refuse to apply Chapter II to persons who are nationals of or habitually resident in the reserving State.

No other reservation shall be permitted.

Any Contracting State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands. The reservation shall cease to have effect on the first day of the third calendar month after the notification.

Article 29

Every Contracting State shall, at the time of the deposit of its instrument of ratification or accession, or at a later date, inform the Ministry of Foreign Affairs of the Kingdom of the Netherlands of the designation of authorities pursuant to Articles 3, 4 and 16.

It shall likewise inform the Ministry, where appropriate, of the following -

- (a) declarations pursuant to Articles 5, 9, 16, 24, 25, 26 and 33;
- (b) any withdrawal or modification of the above designations and declarations;
- (c) the withdrawal of any reservation.

Article 30

The model forms annexed to this Convention may be amended by a decision of a Special Commission convoked by the Secretary General of the Hague Conference to which all Contracting States and all Member States shall be invited. Notice of the

proposal to amend the forms shall be included in the agenda for the meeting.

Amendments adopted by a majority of the Contracting States present and voting at the Special Commission shall come into force for all Contracting States on the first day of the seventh calendar month after the date of their communication by the Secretary General to all Contracting States.

During the period provided for by paragraph 2 any Contracting State may by notification in writing to the Ministry of Foreign Affairs of the Kingdom of the Netherlands make a reservation with respect to the amendment. A Party making such reservation shall until the reservation is withdrawn be treated as a State not a Party to the present Convention with respect to that amendment.

CHAPTER VI

FINAL CLAUSES

Article 31

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session and by non-Member States which were invited to participate in its preparation.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 32

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the twelve months after the receipt of the notification referred to in subparagraph 2 of Article 36. Such an objection may also be raised by Member States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 33

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

Article 34

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 31 and 32.

Thereafter the Convention shall enter into force -

- (1) for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
- (2) for any territory or territorial unit to which the Convention has been extended in conformity with Article 26 or 33, on the first day of the third calendar month after the notification referred to in that Article.

Article 35

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 34 even for States which subsequently have ratified, accepted, approved it or acceded to it.

If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands, at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

Article 36

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 32, of the following -

- (1) the signatures and ratifications, acceptances and approvals referred to in Article 31;
- (2) the accessions and objections raised to accessions referred to in Article 32;
- (3) the date on which the Convention enters into force in accordance with Article 34;
- (4) the declarations referred to in Articles 26 and 33;
- (5) the reservations and withdrawals referred to in Articles 28 and 30;
- (6) the information communicated under Article 29;
- (7) the denunciations referred to in Article 35.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 25th day of October, 1980, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session and to each other State having participated in the preparation of this Convention at this Session.

ANNEX TO THE CONVENTION**Form for transmission of application for legal aid**

Convention on International Access to Justice,
signed at The Hague, on the 25th of October 1980.

Identity and address

Address of the receiving

of the transmitting authority

Central Authority

The undersigned transmitting authority has the honour to transmit to the receiving Central Authority the attached application for legal aid and its annex (statement concerning the applicant's financial circumstances), for the purpose of Chapter I of the above-mentioned Convention.

Remarks concerning the application and the statement, if any:

Other remarks, if any:

Done at, the

Signature and/or stamp

FORM ATTACHED TO THE CONVENTION

Application for legal aid

Convention on International Access to Justice,
signed at The Hague, on the 25th of October 1980.

- 1 Name and address of the applicant for legal aid
- 2 Court or tribunal in which the proceedings have been or will be initiated (if known)
- 3
 - (a) Subject-matter(s) of proceedings; amount of the claim, if applicable
 - (b) If applicable, list of supporting documents pertinent to commenced or intended proceedings*
 - (c) Name and address of the opposing party*
- 4 Any date or time-limit relating to proceedings with legal consequences for the applicant, calling for speedy handling of the application*
- 5 Any other relevant information*
- 6 Done at, the
- 7 Applicant's signature

* Delete if inappropriate.

Annex to the application for legal aid

Statement concerning the applicant's financial circumstances

I Personal situation

- 8 name (maiden name, if applicable)
- 9 first name(s)
- 10 date and place of birth
- 11 nationality
- 12
 - (a) habitual residence (date of commencement of the residence)
 - (b) former habitual residence (date of commencement and termination of the residence)
- 13 civil status (single, married, widow(er), divorced, separated)

- 14 name and first name(s) of the spouse
- 15 names, first names and dates of birth of children dependent on the applicant
- 16 other persons dependent on the applicant
- 17 supplementary information concerning the family situation

II Financial circumstances

- 18 occupation
- 19 name and address of employer or place of exercise of occupation
- 20 income

of the applicant	of the spouse	of the persons dependent on the applicant
---------------------	------------------	---

 - (a) salary (including payments in kind)
 - (b) pensions, disability pensions, alimonies, allowances, annuities
 - (c) unemployment benefits
 - (d) income from non-salaried occupations
 - (e) income from securities and floating capital
 - (f) income from real property
 - (g) other sources of income
- 21 real property

of the applicant	of the spouse	of the persons dependent on the applicant
---------------------	------------------	---

(please state value(s) and obligations)
- 22 other assets

of the applicant	of the spouse	of the persons dependent on the applicant
---------------------	------------------	---

(securities, sharings in profits, claims, bank accounts, business capital, etc.)

- | | | | | |
|-------------|---------------------------|-----------|--------|-------------------------------|
| 23 | debts and other financial | of the | of the | of the persons |
| obligations | | applicant | spouse | dependent on
the applicant |
-
- a) loans (state nature,
balance to be paid and
annual/monthly
repayments)
 - b) maintenance obligations
(state monthly
payments)
 - c) house rent (including
costs of heating,
electricity, gas and
water)
 - d) other recurring
obligations
- 24 income tax and social security contributions for the previous year
- 25 remarks of the applicant
- 26 if applicable, list of supporting documents
- 27 The undersigned, being fully aware of the penalties provided by
law for the making of a false statement, declares that the above
statement is complete and correct.
- 28 Done at (place)
- 29 the (date)
- 30 (applicant's signature)

SECOND SCHEDULE**Declarations and Oppositions**
(Articles 5, 8, 21 and 42)*Substituted by:
III. 2004.61.***PART A - The Hague Convention of 1965**

1. The Government of Malta declares, pursuant to Article 8 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (The Hague, 1965) that it is opposed to service of documents within the territory of Malta effected directly through the diplomatic or consular agents of other Contracting States, in accordance with the first paragraph of the said Article 8, other than upon the national of the Contracting State effecting such service.

2. The Government of Malta declares, pursuant to Article 10 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (The Hague, 1965), that it is opposed to the use by other Contracting States of any of the methods of transmission and service of documents mentioned in the said Article 10 within its territory.

PART B - The Hague Convention of 1970

1. The Government of Malta declares, pursuant to the second paragraph of Article 4 of the Convention on the Taking of Evidence Abroad in Civil and Commercial Matters (The Hague, 1970), that it reserves the right to accept Letters of Request drawn up in the English language only.

THIRD SCHEDULE

(Articles 10, 12 and 13)

Part A

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS ORIGINATING OUTSIDE MALTA

**Convention on the Service Abroad of Judicial and
Extrajudicial Documents in Civil or Commercial Matters,
signed at The Hague, on the 15th of November 1965.**

Identity and address of the applicant	Address of receiving authority
--	-----------------------------------

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.,

(identity and address)

.....
.....

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.

(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:

.....
.....

(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....
.....
.....

Done at, the

Signature and/or stamp.

* Delete if inappropriate.

Part B**REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL
DOCUMENTS ORIGINATING IN MALTA**

Request for Service Abroad of Judicial or Extrajudicial Documents

Identity and address of the applicant	Address of receiving authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with article 12 of the Legal Procedures (Ratification of Conventions) Act, 2001 requests prompt service of one copy thereof on the addressee, i.e.

(identity and address)

.....

(a) in accordance with the provisions of article 12 of the Act *.

(b) in accordance with the following particular method *.

.....

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....

Done at, the

Signature and/or stamp

* Delete if inappropriate.

(If they are not in the English language, the request and the documents must be accompanied by two certified translations thereof in the English language.)

Reverse of the request

CERTIFICATE

(Article 13)

The undersigned authority has the honour to certify, in conformity with article 13 of the Act,

(1) that the document has been served*

• the (date)

.....

• at (place, street, number)

.....

.....

- in one of the following methods:

(a) in accordance with the provisions of article 12 of the Act*.

(b) in accordance with the following particular method*:

.....

.....

The documents referred to in the request have been delivered to:

• (identity and description of person)

•

.....

• relationship to the addressee (family, business or other):

•

.....

.....

(2) that the document has not been served, by reason of the following facts*.

.....

.....

.....

In conformity with article 14 of the Act, the applicant is requested to pay or reimburse the costs and expenses detailed in the attached statement.

Annexes

Documents returned:

.....

.....

.....

In appropriate cases, documents establishing the service:

.....

.....
Done at, the

Signature and/or stamp

* Delete if inappropriate.

Summary of the Document to be Served

(Article 12(2))

Name and address of the requesting authority/officer/person:

.....
.....

Particulars of the parties*:

.....
.....

Judicial Document**

Nature and purpose of the document:

.....
.....

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

.....
.....

Date and place of entering appearance**:

.....
.....

Court which has given judgement**:

.....
.....

Date of judgement**:

.....
.....

Time-limits stated in the document**:

.....

Extrajudicial Document**

Nature and purpose of the document:

.....
.....

Time-limits stated in the document**:

.....

.....

* If appropriate, identity and address of the person interested in the transmission of the document.

**Delete if inappropriate.

FOURTH SCHEDULE

(Articles 22 and 42)

Reservation

The Government of Malta declares, pursuant to Article 28 of the Convention on the International Access to Justice (The Hague, 1980), that it excludes the application of Article 1 of the said Convention in the case of persons who are not nationals of a Contracting State but who have their habitual residence in a Contracting State other than Malta or formerly had their habitual residence in Malta, if there is no reciprocity of treatment between Malta and the State of which the applicants for legal aid are nationals.
