



## **European Convention on the Obtaining Abroad of Information and Evidence in Administrative Matters**

Strasbourg, 15.III.1978

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### **Preamble**

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, based in particular on respect for the rule of law, as well as human rights and fundamental freedoms;

Believing that the creation of appropriate means of mutual assistance in administrative matters will contribute to the attainment of this aim;

Having regard to the importance of facilitating and simplifying the means of obtaining information and evidence in administrative matters,

Have agreed as follows:

### **Chapter I – General provisions**

#### **Article 1 – Scope of the Convention**

- 1 The Contracting States undertake to afford each other mutual assistance in administrative matters whenever a request for assistance is received in accordance with the provisions of this Convention.
- 2 This Convention shall not apply to fiscal or criminal matters. However, each State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later time, give notice by a declaration addressed to the Secretary General of the Council of Europe, that, for purposes of requests for assistance addressed to it, this Convention shall apply to fiscal matters or to any proceedings in respect of offences the punishment of which does not fall within the jurisdiction of its judicial authorities at the time of the request for assistance. This State may specify in the declaration that it is conditional on reciprocity.
- 3 Each State may at any time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any time within five years after the entry into force of this Convention in respect of itself give notice, by a declaration addressed to the Secretary General of the Council of Europe, of the administrative matters with regard to which it will not apply this Convention. Any other Contracting State may claim reciprocity.

- 4 The declarations in pursuance of paragraphs 2 and 3 of this Article shall take effect, as the case may be, from the moment of the entry into force of the Convention with regard to the State which has made them or three months after receipt by the Secretary General of the Council of Europe. They may be withdrawn, partially or wholly, by means of a declaration addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect three months after the date of receipt of this declaration.

#### **Article 2 – Central authority**

- 1 Each Contracting State shall designate a central authority to receive, and to take action on, requests for assistance in administrative matters emanating from authorities of other Contracting States. Federal States shall be free to designate more than one central authority.
- 2 Each Contracting State may designate other authorities having the same functions as the central authority and shall determine their territorial competence. However, the requesting authority shall in all cases have the right to address itself directly to the central authority.
- 3 Each Contracting State may, in addition, designate a forwarding authority to centralise requests for assistance from its authorities and to transmit them to the competent central authority abroad. Federal States shall be free to designate more than one forwarding authority.
- 4 The aforementioned authorities must be either a ministerial department or another official body.
- 5 Each Contracting State shall by a declaration addressed to the Secretary General of the Council of Europe communicate the name and address of the authorities designated in accordance with the provisions of this Article.

#### **Article 3 – Exemption from legalisation**

The request for assistance and appendices thereto forwarded in pursuance of the present Convention shall be exempt from legalisation, apostille or any equivalent formality.

#### **Article 4 – Duty to reply**

Subject to the provisions of this Convention to the contrary, the central authority of the requested State which has received a request for assistance shall be obliged to take action on it.

#### **Article 5 – Content of the request**

The request must contain all the necessary information concerning in particular:

- a the authority from which the request emanates;
- b the substance and the purpose of the request;
- c where applicable, the name, nationality, address and any further details for the identification of the person who is to be asked to furnish the information or to whom the information or document requested pertains.

### **Article 6 – Conformity of the request**

If the central authority of the requested State considers that the request does not conform with the provisions of this Convention it shall so inform the requesting authority without delay, specifying its objections.

### **Article 7 – Refusal to comply**

- 1 The central authority of the requested State to which a request for assistance is addressed may refuse to comply with it if it considers:
  - a that the matter to which the request relates is not an administrative matter in the sense of Article 1 of this Convention;
  - b that compliance with the request might interfere with the sovereignty, security, public policy or other essential interests of that State;
  - c that compliance might prejudice the fundamental rights or essential interests of the person to whom the requested information pertains, or that the request concerns information held in confidence, which may not be disclosed;
  - d that its domestic law or customs prevent the assistance requested.
- 2 In cases of refusal the central authority of the requested State shall so inform the requesting authority without delay, giving the reasons for its refusal.

### **Article 8 – Costs**

Subject to the provisions of Articles 18 and 21, the reply to a request for assistance shall not give rise to any refund of fees or costs in connection with the services rendered by the requested State.

### **Article 9 – Language**

- 1 The request for assistance and the appendices thereto shall be drawn up in the official language, or in one of the official languages, of the requested State or be accompanied by a translation into that language.
- 2 However, each central authority shall accept requests for assistance when they are drawn up in one of the official languages of the Council of Europe or are accompanied by a translation into one of these languages, unless it states an objection in the specific case.
- 3 The reply shall be drawn up in the official language or in one of the official languages of the requested State, the Council of Europe or the requesting State.

### **Article 10 – Time-limits and transmission of the reply**

- 1 The reply to the request for assistance shall be furnished as rapidly as possible. However, if the reply requires a long time to prepare, the central authority of the requested State shall so inform the requesting authority, if possible by indicating at the same time the approximate date on which the reply can be expected.
- 2 The reply to the request for assistance shall be sent to the requesting authority.

**Article 11 – Forwarding through diplomatic or consular channels**

Each Contracting State may use diplomatic or consular channels to forward requests for assistance to the central authority of another Contracting State.

**Article 12 – Other international agreements or arrangements**

Nothing in this Convention shall affect existing or future international agreements and practices or other arrangements between Contracting States which relate to matters dealt with in the present Convention.

**Chapter II – Requests for information, documents and enquiries**

**Article 13 – Requests for information on law, regulations and customs**

The Contracting States agree to furnish each other with information on their law, regulations and customs in administrative matters whenever a request is made by an authority of the requesting State for an administrative purpose.

**Article 14 – Requests for factual information and for documents**

The Contracting States agree to furnish each other with factual information in administrative matters which is in their possession, and to issue certified copies, ordinary copies or extracts of administrative documents whenever a request is made by an authority of the requesting State for an administrative purpose.

**Article 15 – Requests for enquiries**

When a request is made for administrative purposes by an authority of the requesting State, the Contracting States undertake to comply with it by enquiries or any other procedures according to the form prescribed or permitted by the legislation or customs of the requested State, but without the use of compulsory powers.

**Article 16 – Specific purpose of the requested information**

- 1 Upon a stipulation by the central authority of the requested State the requesting authority may not use the information or documents furnished pursuant to this Convention for purposes other than those specified in its request for assistance.
- 2 Any State may, at any time, formulate a reservation to the provisions of paragraph 1 of this Article in so far as its legislation on access of the public to administrative records does not permit it to comply.
- 3 The central authority of the requested State may, in respect of each case, refuse to comply with any request emanating from an authority of a State which has formulated such a reservation.

**Article 17 – Authority empowered to reply**

- 1 The central authority of the requested State which has received a request may either draw up the reply itself, if it is competent, or transmit the request to the authority competent to draw up the reply.

- 2 The central authority of the requested State may, in appropriate cases or for reasons of administrative organisation, with the agreement of the requesting authority, transmit a request for information on a point of law referred to in Article 13 to a private body or qualified lawyer to draw up the reply.

#### **Article 18 – Special costs**

- 1 The sums due to experts and interpreters assisting in the fulfilment of a request shall be borne by the requesting State.
- 2 The same shall apply where the reply to a request for information on a point of law referred to in Article 13 is drawn up, with the agreement of the requesting authority, by a private body or qualified lawyer.

### **Chapter III – Letters of request in administrative matters**

#### **Article 19 – Obtaining evidence**

- 1 An administrative tribunal or any other authority exercising judicial functions in administrative matters in one of the Contracting States may, in accordance with the provisions of the law of that State, request the central authority of another Contracting State by letters of request to obtain, through the authority, evidence in an administrative matter to the extent that a procedure for obtaining such evidence may be employed for the case in question in the requested State.
- 2 A letter of request shall not be used to obtain evidence which is not intended for use in judicial proceedings, commenced or contemplated.
- 3 The execution of the letter of request may be refused to the extent that in the requested State, the execution of the letter does not fall within the functions of an administrative tribunal or any other authority exercising judicial functions in administrative matters.

#### **Article 20 – Law applicable and special form**

- 1 The authority responsible for the execution of letters of request shall apply its domestic law as to the methods and procedures to be followed and the means of compulsion to be applied.
- 2 However, deference shall be made to the wish of the requesting authority for the procedure to follow a special form if such form is not incompatible with the law and customs of the requested State, particularly with regard to the notification of the parties concerned of the date and place the enquiry will be carried out.
- 3 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 evidence:
  - a under the law of the requested State; or
  - b under the law of the requesting State, 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.

#### **Article 21 – Special costs**

The sums due to experts and interpreters assisting in the execution of letters of request shall be borne by the requesting State. The same shall apply where the request for the application of a particular form of procedure entails special costs.

### **Article 22 – Taking of evidence by diplomatic or consular agents**

The provisions of the present Chapter shall not restrict the freedom of Contracting States to obtain evidence directly through their diplomatic or consular agents provided there is no objection in the State within whose territory evidence is to be taken.

## **Chapter IV – Final provisions**

### **Article 23 – Entry into force of the Convention**

- 1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 2 The Convention shall enter into force on the first day of the month following the expiration of three months after the date of the deposit of the third instrument of ratification, acceptance or approval.
- 3 In respect of any signatory State ratifying, accepting or approving it subsequently, the Convention shall come into force on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

### **Article 24 – Revision of the Convention**

At the request of any Contracting State or after the third year following the entry into force of the Convention, the Contracting States shall proceed to a multilateral consultation in which any member State of the Council of Europe may have itself represented by an observer, in order to examine its application as well as the advisability of its revision or of an enlargement of any of its provisions. This consultation shall take place during a meeting convoked by the Secretary General of the Council of Europe.

### **Article 25 – Accession of a State not a member of the Council of Europe**

- 1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto, by decision taken by a two-thirds majority of the votes cast, including the unanimous votes of the Contracting States.
- 2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

### **Article 26 – Territorial scope of the Convention**

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession specify the territory or territories to which this Convention shall apply.
- 2 Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
- 3 Any declaration made in pursuance of the preceding paragraph may be withdrawn. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the declaration of withdrawal.

**Article 27 – Reservations to the Convention**

- 1 The provisions of this Convention cannot be subject to any reservation other than that set out in Article 16, paragraph 2.
- 2 The Contracting State which makes use of the reservation set out in Article 16, paragraph 2, may withdraw it by means of a declaration addressed to the Secretary General of the Council of Europe and which takes effect from the date of its reception.

**Article 28 – Denunciation of the Convention**

- 1 Any Contracting State may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification. This Convention shall, however, continue to apply to requests received before the date on which the denunciation takes effect.

**Article 29 – Functions of the depositary of the Convention**

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- a any signature;
- b any deposit of an instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Article 23, paragraphs 2 and 3;
- d any declaration received in pursuance of the provisions of Article 1, paragraphs 2, 3 and 4;
- e any declaration received in pursuance of the provisions of Article 2, paragraph 5;
- f any reservation made in pursuance of the provisions of Article 16, paragraph 2;
- g any declaration received in pursuance of the provisions of Article 26, paragraphs 2 and 3;
- h the withdrawal of any reservation effected in pursuance of the provisions of Article 27, paragraph 2;
- i any notification received in pursuance of the provisions of Article 28, paragraph 1.

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

Done in Strasbourg, this 15th day of March 1978, in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.