

N° 2990.

BELGIQUE ET BULGARIE

Convention relative à certaines questions d'ordre judiciaire. Signée à Sofia, le 2 juillet 1930.

BELGIUM AND BULGARIA

Convention concerning certain Judicial Questions. Signed at Sofia, July 2, 1930.

¹ TRADUCTION. — TRANSLATION.No. 2990. — CONVENTION ² BETWEEN BELGIUM AND BULGARIA
CONCERNING CERTAIN JUDICIAL QUESTIONS. SIGNED AT
SOFIA, JULY 2, 1930.

French official text communicated by the Bulgarian Chargé d'Affaires at Berne and by the Belgian Minister for Foreign Affairs. The registration of this Convention took place July 4, 1932.

HIS MAJESTY THE KING OF THE BULGARIANS and HIS MAJESTY THE KING OF THE BELGIANS, being desirous of giving one another judicial assistance in civil and commercial matters and of concluding a Convention with this object, have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

His Excellency Monsieur Athai asse D. BOUROFF, Minister for Foreign Affairs and Religion ;

HIS MAJESTY THE KING OF THE BELGIANS :

His Excellency Baron H. DE WOELMONT, Envoy Extraordinary and Minister Plenipotentiary at Sofia ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

PART I.

ACCESS TO THE COURTS.

Article 1.

Belgians in Bulgaria and Bulgarians in Belgium shall have free and unhindered access to the Courts for the purpose of asserting or defending their rights in all the judicial instances established by the laws.

“ CAUTIO JUDICATUM SOLVI ” (SECURITY FOR COSTS).

Article 2.

In particular, nationals of one of the High Contracting Parties appearing as plaintiffs or interveners before the Courts of the other High Contracting Party shall not be required to give

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Sofia, June 4, 1932.

any surety or make any deposit whatsoever by reason either of their being foreigners or of their not being domiciled or resident in the country, provided that they are domiciled in one of the contracting States.

The same rule shall apply to any payment required of plaintiffs or interveners to cover judicial costs.

Article 3.

Orders to pay the costs and expenses arising out of an action made in one of the two contracting States against a plaintiff or intervener exempted from giving surety, making a deposit or paying advances, in virtue either of Article 2, paragraphs 1 and 2, or of the law of the State in which the action is brought, shall be made executory free of charge by the competent authority of the other contracting State.

The same rule shall apply to judicial decisions by which the costs of the case are subsequently fixed.

The request for enforcement in the other contracting State shall be transmitted through the diplomatic channel or, alternatively, shall be made direct by the party concerned. In the former case it shall be accompanied by a detailed statement of the costs and expenses claimed.

Article 4.

Decisions relating to costs and expenses shall be declared executory without the parties being heard, subject to the losing party's right of subsequent appeal, in conformity with the laws of the country in which execution is to be enforced.

The authority competent to decide on the request for enforcement shall limit its action to examining :

(1) Whether, according to the law of the country in which the sentence has been pronounced, the copy of the decision complies with the necessary conditions regarding authenticity ;

(2) Whether, according to the same law, the decision has acquired the force of *res judicata* ;

(3) Whether the operative part of the decision is drawn up in the language of the authority applied to or is accompanied by a translation in that language, such translation being duly certified correct by a diplomatic agent or consular official of the applicant State or by a sworn translator of one of the two States.

To satisfy the conditions laid down in paragraph 2, Nos. 1 and 2, declarations to the effect that the decision has acquired the force of *res judicata* shall be deemed sufficient. The High Contracting Parties undertake to inform one another, by communications which shall be exchanged at the earliest possible date, which authorities are competent in their territory to issue such declarations. The latter, duly legalised, shall be drawn up in the language of the authority applied to or shall be accompanied by a translation in that language, such translation being certified correct under the conditions laid down in the foregoing paragraph.

FREE LEGAL AID.

Article 5.

Nationals of either Contracting State shall, in the territory of the other Contracting State, be given free legal aid on the same terms as nationals of the country, on complying with the laws of the State in which such free legal aid is claimed.

Article 6.

In every instance, the certificate or declaration of insufficient means shall be issued or received by the authorities of the foreigner's place of habitual residence or, failing such residence, by the authorities of the place in which he is residing for the time being. Should the last-named authorities not belong to one of the contracting States and not receive or issue certificates or declarations of this nature, a certificate or declaration issued or received by a diplomatic agent or consular official of the country to which the foreigner belongs shall be deemed sufficient.

Should the applicant not reside in the country in which the request is made, the certificate or declaration of insufficient means shall be legalised free of charge by a diplomatic agent or consular official of the country in which the document is to be produced.

Article 7.

The authority competent to issue the certificate or receive the declaration of insufficient means may take steps to ascertain the financial circumstances of the applicant from the authorities of the other contracting State.

The authority responsible for deciding on the request for free legal aid shall preserve the right, within the limits of his powers, to scrutinise the certificates, declarations and information supplied to him.

Article 8.

If free legal aid has been granted to a national of one of the contracting States, the State applied to may claim from the applicant State, for the service of documents relating to the same case in the other State, only the costs arising out of the use of a special procedure under Article 10 of the Convention.

In such cases the execution of "commissions rogatoires" shall entitle the State applied to only to claim the repayment, by the applicant State, of allowances paid to witnesses or experts and of costs arising out of the application of Article 19, paragraph 2.

PART II.

TRANSMISSION OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

Article 9.

The authorities of the two countries shall, when they are requested to do so through the diplomatic channel, give one another assistance free of charge as regards the handing over, without the employment of measures of compulsion, of judicial and extra-judicial documents in civil and commercial matters and the forwarding of the receipt certifying that the documents in question have been delivered or the report stating that delivery could not be effected.

Article 10.

Should a request for the purpose appear in the application, the competent authority shall cause the document to be served in accordance with the procedure laid down in the domestic laws of the country for the service of similar documents or in accordance with a special procedure, provided that such procedure is not contrary to the laws of the said country.

In such cases, the State applied to shall have the right to demand from the applicant State the repayment of the costs arising out of the intervention of a legal officer or the use of a special procedure, as provided in the foregoing paragraph. Furthermore, the documents to be served shall be drawn up in the language of the authority applied to or shall be accompanied by a translation in that language, such translation being duly certified correct under the conditions laid down in Article 4.

Article 11.

The delivery or service of the document may be refused if the State applied to considers it such as to affect its sovereignty or safety.

Article 12.

Nothing in the foregoing articles shall affect :

- (1) The right to address documents direct through the post, to the persons concerned who may be abroad ;
- (2) The right of the persons concerned to cause documents to be served by the legal officers or competent officials of the country of destination.

PART III.

“ COMMISSIONS ROGATOIRES.”

Article 13.

In civil and commercial matters the judicial authority of either contracting State may, in conformity with the provisions of its law, apply by “ commission rogatoire ” to the competent authority of the other contracting State to proceed, within its jurisdiction, to preliminary legal investigations or judicial measures.

Article 14.

“ Commissions rogatoires ” shall be transmitted through the diplomatic channel, as shall the documents certifying the execution thereof or indicating the circumstance that has prevented execution.

Article 15.

The “ commission rogatoire ” shall be drawn up in the language of the authority applied to or shall be accompanied by a translation in that language, such translation being duly certified correct.

Article 16.

The judicial authority to which the “ commission rogatoire ” is addressed shall be obliged to execute it by the use of the same compulsory measures as would be applied in the case of a commission emanating from the authorities of the State applied to or of a request to that effect made by an interested party. Such compulsory measures shall not necessarily be employed if the parties to the case are required to appear before the judicial authorities.

The applicant authorities shall, if they so request, be informed of the date and place where the proceedings asked for are to take place, in order that the interested party may be able to be present.

The execution of a " commission rogatoire " can only be refused :

- (1) If the authenticity of the document is not established ;
- (2) If, in the State applied to, the execution of the " commission rogatoire " does not come within the functions of the judicial authority ;
- (3) If the State within whose territory execution was to have taken place considers it such as to affect its sovereignty or safety.

Article 17.

In case the authority applied to is without jurisdiction, the " commission rogatoire " shall be forwarded without any further request to the competent judicial authority of the same State, in accordance with the rules laid down by the law of the latter.

Article 18.

In every instance, if the " commission rogatoire " is not executed by the authority applied to, the latter shall inform the applicant authority through the diplomatic channel, stating in the case of Article 16 the grounds on which the execution of the " commission rogatoire " has been refused and, in the case of Article 17, the authority to which the " commission rogatoire " has been forwarded.

Article 19.

The judicial authority responsible for the execution of a " commission rogatoire " shall apply the laws of its country as regards the procedure to be observed.

Nevertheless, a request on the part of the applicant authority that some special procedure may be followed shall be acceded to, provided that such procedure is not contrary to the law of the State applied to.

Article 20.

No fees or charges of any kind shall be levied in respect of the execution of " commissions rogatoires ".

Nevertheless, the State applied to shall have the right to demand that the applicant State shall repay the allowances paid to witnesses, when their evidence could not be obtained free of charge, and to experts, and likewise the costs arising out of the intervention of a legal officer by reason of the fact that the witnesses have not appeared voluntarily, or costs resulting from the application of Article 19, paragraph 2.

PART IV.

IMPRISONMENT FOR DEBT.

Article 21.

Imprisonment for debt, whether as a means of execution or simply as an interim measure of protection, may not, in civil or commercial matters, be applied to foreigners belonging to either contracting State in cases in which imprisonment for debt would not be applicable to nationals

of the country. Any fact that can be brought forward by a national domiciled in the country with a view to the rescinding of an order for imprisonment for debt shall produce the same effect in the case of a national of the other Contracting State even if such fact has occurred abroad.

PART V.

FINAL PROVISIONS.

Article 22.

The present Convention shall not apply to the colony of the Belgian Congo or to the territories for which Belgium holds a mandate on behalf of the League of Nations.

Article 23.

The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible at Sofia.

It shall come into force one month after the exchange of ratifications and shall remain in force for five years as from the date of the exchange of ratifications; if neither High Contracting Party gives to the other Party notice, one year before the expiration of the said period, of its intention to terminate the Convention, it shall remain in force for a further period of one year, and shall so continue from year to year, as from the date on which one or other of the High Contracting Parties shall have denounced it.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done, in duplicate, at Sofia, July 2, 1930.

(L. S.) A. D. BOUROFF, *m. p.* (L. S.) BARON H. DE WOELMONT, *m. p.*