

N° 3114.

BELGIQUE ET LITHUANIE

Convention relative à l'aide judiciaire
en matières civile et commerciale.
Signée à Bruxelles, le 12 décembre
1930.

BELGIUM AND LITHUANIA

Convention regarding Judicial Assis-
tance in Civil and Commercial
Matters. Signed at Brussels, De-
cember 12, 1930.

¹ TRADUCTION. — TRANSLATION.No. 3114. — CONVENTION ² BETWEEN BELGIUM AND LITHUANIA REGARDING JUDICIAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT BRUSSELS, DECEMBER 12, 1930.

*French official text communicated by the Lithuanian and Belgian Ministers for Foreign Affairs.
The registration of this Convention took place December 25, 1932.*

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, and HIS MAJESTY THE KING OF THE BELGIANS, having resolved to lend each other judicial assistance in civil and commercial matters and to conclude a Convention for this purpose, have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA :

His Excellency M. Petras KLIMAS, Envoy Extraordinary and Minister Plenipotentiary accredited to His Majesty the King of the Belgians,

HIS MAJESTY THE KING OF THE BELGIANS :

M. HYMANS, His Minister for Foreign Affairs,

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

I. ACCESS TO THE COURTS AND SECURITY FOR COSTS.

(Cautio judicatum solvi.)

Article 1.

Belgian nationals in Lithuania and Lithuanian nationals in Belgium shall, subject to reciprocity, have free and ready access to the Courts of Justice in the other country, whether as plaintiffs or defendants, and before all the Courts of every instance, so long as they comply with the legislation in force in that country. They shall be entitled to employ in all legal proceedings such counsel and representatives, of whatever category, as are authorised by the legislation of the country, and shall in all these respects be entitled to the same rights and privileges as are or may hereafter be granted to the nationals of the State in question.

Article 2.

No fee, security or deposit shall be exacted from the nationals of either High Contracting Party who institute proceedings before the Courts of the other Contracting Party, whether as

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 Kaunas, November 25, 1932.

plaintiffs or interveners, to which the nationals of the country in question would not be liable under similar circumstances provided, however, that such plaintiffs or interveners be domiciled in one of the contracting States.

Article 3.

If costs are awarded in one of the contracting States against a plaintiff or intervener who is exempted under Article 2 from fees, security or deposit, this sentence shall be enforced free of charge by the competent authority of the other State.

The application for enforcement shall either be made through the diplomatic channel or shall be addressed direct by the party concerned, in Belgium, to the Procurator Royal attached to the Court of the place in which the application is to be enforced, and in Lithuania, to the President of the District Court within whose jurisdiction the losing party resides.

Article 4.

Decisions as to costs shall be declared enforceable without hearing the parties, but subject to the right of subsequent appeal against this declaration by the losing party in accordance with the laws of the country in which the decision is to be enforced.

The authority competent to pronounce upon the application for enforcement shall simply ascertain :

(1) Whether, according to the law of the country in which the sentence has been pronounced, the copy of the decision fulfils the conditions required to establish its authenticity ;

(2) Whether the decision has acquired the force of *res judicata* under the said law ;

(3) Whether the operative portion of the decision is accompanied by a translation in the language of the authority applied to, this translation being certified correct by a diplomatic or consular agent of the applicant State or by a sworn translator of either State.

As regards the fulfilment of the conditions laid down in paragraph 2, Nos. 1 and 2, statements by the competent authorities of the applicant State that the decision has acquired the force of *res judicata* shall suffice. These statements shall be legalised by the Ministry of Justice of the applicant State and shall be drawn up or translated in accordance with the rule laid down in paragraph 2, No. 3.

The authority competent to pronounce upon the application for enforcement shall, provided this request is made to him at the same time, assess the cost of translation and legalisation referred to in paragraph 2, No. 3. These costs shall be regarded as part of the costs of the case.

II. FREE LEGAL ASSISTANCE.

Article 5.

Poor persons who are nationals of either of the Contracting Parties shall enjoy in the territory of the other Party the benefit of free legal aid, in whole or in part, on the same terms as the nationals of that Party, provided they comply with the laws of the country in which aid is applied for.

Article 6.

For this purpose the poor person shall apply :

(1) In Belgium, either verbally or by a request in duplicate signed by himself or his attorney to the legal assistance office attached to the Tribunal or Court before which

the dispute has been or is to be brought. If the dispute comes within the jurisdiction of the Justice of the Peace, the request must be made to the latter ;

(2) In Lithuania, either verbally or by a request signed by himself or by his attorney to the Justice of the Peace or to the district court to which the dispute has been submitted.

Article 7.

The applicant shall attach to his request the documents in proof of his indigence required by the law of the country in which he resides.

If no law on the subject exists in that country or if it is not possible for him to comply with the law in force therein, he shall attach to his request an affidavit sworn before the diplomatic or consular agent of the country to which he belongs, mentioning his address and giving particulars of his means of livelihood and family responsibilities. This diplomatic or consular agent shall certify that the affidavit appears to him to be true or to contain inaccuracies, as the case may be, and shall state the result of the investigations which it was his duty to carry out in the matter.

If the applicant does not reside in the country where the request is made, the documents proving his indigence shall be legalised free of charge by a diplomatic or consular agent of the country in which those documents are to be produced.

Article 8.

The authority competent to issue certificates of indigence may apply to his own authorities for information concerning the financial position of the applicant.

The authority responsible for pronouncing upon requests for legal aid shall, within the limits of its competence, be entitled to verify the documents and information furnished to it.

Article 9.

When the benefit of legal aid has been granted by either of the High Contracting Parties, either to one of its nationals or to a national of the other party, no expenses shall be refunded by the applicant State to the State applied to in respect of the service of judicial documents relating to the case in question, other than the expenses incurred owing to the use of a special form of procedure not provided for in the laws of the State applied to.

In such cases, no expenses shall be refunded by the applicant State to the State applied to in respect of the execution of letters of request other than the amount of experts' fees and the expenses incurred owing to the use of a special form of procedure.

III. — DETENTION.

Article 10.

Detention, either as a means of enforcement or simply as a measure of precaution may not, in civil or commercial matters, be applied in Lithuania to Belgian nationals, or in Belgium to Lithuanian nationals, in cases where it would not be applicable to their own nationals. A fact adducible by a person domiciled in the country in order to obtain his release from detention shall be equally valid if adduced by a national of the other contracting State, even if the fact occurred outside the country.

IV. TRANSMISSION OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

Article 11.

Judicial and extra-judicial documents shall be transmitted :

In Belgium, upon a request addressed by the diplomatic or consular agent of Lithuania to the Procurator Royal within whose jurisdiction the recipient of the document is ;

In Lithuania, upon a request addressed by the diplomatic or consular agent of Belgium to the President of the District Court within whose jurisdiction the recipient of the document is.

The request, indicating the authority from whom the document emanates, the names and description of the parties, the address of the recipient and the nature of the document shall be drawn up in one of the languages used in the State applied to.

If the authority to whom a document has been transmitted is not the competent authority for the purpose, he shall of his own motion transmit the document to the competent authority of the State applied to.

Article 12.

Except in the case provided for in Article 13, the competent authority of the State applied to may simply effect service by handing over the document to the addressee if the latter accepts it.

Article 13.

If the document to be transmitted is drawn up in one of the languages used in the State applied to or is accompanied by a translation in one of those languages, the authority applied to, should this desire be expressed in the request, shall effect service of the document in the manner prescribed by its own law for the service of similar documents or by special procedure, provided such procedure be not contrary to that law.

The translation referred to in the previous paragraph shall be certified correct by the diplomatic or consular agent of the applicant State or by an official or sworn translator of either State.

This translation shall, upon request, be made through the State applied to, the cost being borne by the authority making the application.

Article 14.

Proof of transmission or service shall be furnished either by a receipt dated and legalised by the addressee or by a certificate of the authority of the State applied to, establishing the fact, the manner and the date of service.

If the document for service has been transmitted in duplicate, the receipt or the certificate must be given on one of the copies or be attached thereto.

The authority receiving the request shall send to the diplomatic or consular agent of the applicant State the vouchers proving the service of the document or a statement of the reasons for which it was not possible to affect service.

Article 15.

The execution of the request for transmission or service may only be refused if the State in whose territory it is to be effected deems it prejudicial to its sovereign rights or its security.

Article 16.

No dues or expenses of any kind shall be refunded in respect of the transmission of documents.

Nevertheless the State applied to shall have the right to require of the applicant State the repayment of the costs of service effected in accordance with Article 13. The judicial authority applied to shall claim repayment from the diplomatic or consular authority making the application at the same time as it transmits to the latter the vouchers referred to in Article 14.

Article 17.

The provisions of the foregoing Articles shall not preclude :

- (1) The right to send documents by post direct to the persons concerned who are in the territory of the other Party ;
- (2) The right of the persons concerned to have service effected direct through the judicial officers or the competent officials of the country of destination ;
- (3) The right of the two Contracting Parties to effect through their respective diplomatic and consular agents direct, and without resort to compulsion, the transmission of documents in the territory of the other Party, whatever the nationality of the addressee.

However, in the case provided for in No. 3 of the present Article, the document shall be drawn up in one of the languages of the State in whose territory it is to be served, or shall be accompanied by a translation in one of those languages, unless the addressee is a national of the applicant State.

V. TRANSMISSION AND EXECUTION OF LETTERS OF REQUEST.

Article 18.

The judicial authority of either of the Contracting States may, in accordance with its legislation, apply to the competent authority of the other State requesting it to carry out, within its jurisdiction, either a judicial investigation or other judicial acts.

Article 19.

The letter of request shall be drawn up in one of the languages of the authority applied to, or shall be accompanied by a translation in one of those languages, certified correct by a diplomatic or consular agent of the applicant State, or by an official or sworn translator of either State. If it is not accompanied by a translation, this shall be made through the State applied to, the cost being borne by the applicant State.

Article 20.

The letter of request shall be transmitted :

In Lithuania, by the diplomatic or consular agent of Belgium to the President of the District Court within whose jurisdiction the letter of request is to be executed ;

In Belgium, by the diplomatic or consular agent of Lithuania to the Minister of Justice.

Article 21.

As a general rule, the authority of the country applied to which is called upon to execute a letter of request shall follow its own laws as regards the procedure to be adopted.

Where necessary to ensure the execution of the letter of request, the authority in question shall use the measures of compulsion employed for the execution of a letter of request emanating from its own authorities, or when an application to this effect is made by an interested party. These measures of compulsion need not necessarily be employed if the question is one of the appearance before the authorities of parties to the case.

Article 22.

Upon the express request of the diplomatic or consular agent, the authority applied to shall :

- (1) Execute the letter of request by special procedure, provided such procedure be not contrary to the law of the State applied to ;
- (2) Inform in good time the authority making the application of the date and place of execution of the letter of request in order that the interested parties may be able to be present at the proceedings.

Article 23.

The execution of a letter of request may only be refused :

- (1) If the authenticity of the document is not established ;
- (2) If, in the State applied to, the execution of the letter of request does not fall within the competence of the judicial authorities ;
- (3) If the State applied to deems it prejudicial to its sovereign rights or its security.

Article 24.

If the authority applied to is not the competent authority for the purpose it shall transmit the letter of request of its own motion to its own proper judicial authority, according to the rules prescribed by its own laws.

Article 25.

In all cases where the letter of request is not executed, the authority applied to shall forthwith inform the diplomatic or consular agent of the applicant State, giving the reasons for which execution has not been possible.

Article 26.

No dues or expenses of any kind shall be refunded in respect of the execution of letters of request.

Nevertheless, the State shall have the right to require the applicant State to refund the fees paid to witnesses, experts, interpreters or translators and the cost of the intervention of a judicial officer required on account of the deliberate non-appearance of witnesses, or the expenses resulting from the application of Article 22, No. 1, should this be necessary.

The authority applied to shall claim the repayment of expenses from the applicant authority at the same time as it sends the latter the documents in proof of the execution of the letters of request, these expenses being calculated at the rate applicable to nationals of the State applied to.

Article 27.

The two High Contracting Parties recognise each other's right to have letters of request executed direct by their diplomatic or consular agents provided that the person called upon to furnish the proof or evidence required is of the same nationality as the authorities making the application and that none of the parties to the case to which the letters of request relate is a national of the country in which the evidence or proof is to be obtained.

The agent responsible for this execution may ask the persons in question either to appear as witnesses or to produce any document or to take an oath, but he shall not resort to coercive measures.

Article 28.

The fact that an attempt to execute the letters of request by the means provided for in Article 27 has failed owing to the refusal of the persons in question to appear, to give evidence or to produce documents shall not bar a subsequent request made in accordance with Article 18.

Article 29.

All difficulties resulting from the present Convention shall be settled through the diplomatic channel.

Article 30.

The present Convention shall not apply to the Colony of the Congo or to the territories over which Belgium exercises a mandate on behalf of the League of Nations.

Article 31.

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

It shall come into force one month after the exchange of ratifications and shall remain in operation until the expiry of a period of six months from the date of its denunciation by one of the Contracting Parties.

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

Done at Brussels, in duplicate, December 12, 1930.

(L. S.) P. KLIMAS.

(L. S.) HYMANS.