

Hague Conference PIL Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters - Concluded November 15, 1965

Hague Conference on Private International Law

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FORMS (REQUEST AND CERTIFICATE) SUMMARY OF THE DOCUMENT TO BE SERVED (annexes provided for Articles 3, 5, 6 and 7) 7

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1 **Hague Conference PIL Convention on the Service
Abroad of Judicial and Extrajudicial Documents in
Civil or Commercial Matters (Concluded November
15, 1965)**

2 **Preamble**

[Preamble]

3 The States signatory to the present Convention,

4 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,

5 Desiring to improve the organisation of mutual judicial assis-
tance for that purpose by simplifying and expediting the proce-
dure,

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

7 **Substantive text of the Convention**

8 **Article 1**

9 The present Convention shall apply in all cases, in civil or com-
mercial matters, where there is occasion to transmit a judicial
or extrajudicial document for service abroad.

10 This Convention shall not apply where the address of the per-
son to be served with the document is not known.

11 **CHAPTER I ? JUDICIAL DOCUMENTS**

12 **Article 2**

Each Contracting State shall designate a Central Authority 13
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 14
with its own law.

Article 3 15

The authority or judicial officer competent under the law of the 16
State in which the documents originate shall forward to the Cen-
tral Authority of the State addressed a request conforming to the
model annexed to the present Convention, without any require-
ment of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed 17
to the request. The request and the document shall both be
furnished in duplicate.

Article 4 18

If the Central Authority considers that the request does not 19
comply with the provisions of the present Convention it shall
promptly inform the applicant and specify its objections to the
request.

Article 5 20

The Central Authority of the State addressed shall itself serve 21

the document or shall arrange to have it served by an appropriate agency, either ?

22 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

23 b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

24 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.

25 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.

26 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.

27 **Article 6**

28 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.

29 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.

30 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. 31

Article 7 32

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. 33

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English. 34

Article 8 35

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. 36

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. 37

Article 9 38

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. 39

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose. 40

41	Article 10		
42	Provided the State of destination does not object, the present Convention shall not interfere with ?		
43	a) the freedom to send judicial documents, by postal channels, directly to persons abroad,		
44	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,		
45	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.		
46	Article 11		
47	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.		
48	Article 12		
49	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.		
50	The applicant shall pay or reimburse the costs occasioned by-		
51	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.	52
		Article 13	53
		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.	54
		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.	55
		The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.	56
		Article 14	57
		Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.	58
		Article 15	59
		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 ?	60
		a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents	61

in domestic actions upon persons who are within its territory,
or

62 b) the document was actually delivered to the defendant or to
his residence by another method provided for by this Conven-
tion,

63 and that in either of these cases the service or the delivery
was effected in sufficient time to enable the defendant to de-
fend.

64 Each Contracting State shall be free to declare that the judge,
notwithstanding the provisions of the first paragraph of this Ar-
ticle, may give judgment even if no certificate of service or
delivery has been received, if all the following conditions are
fulfilled-

65 a) the document was transmitted by one of the methods pro-
vided for in this Convention,

66 b) a period of time of not less than six months, considered ade-
quate by the judge in the particular case, has elapsed since the
date of the transmission of the document,

67 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.

68 Notwithstanding the provisions of the preceding paragraphs the
judge may order, in case of urgency, any provisional or protec-
tive measures.

69 **Article 16**

70 When a writ of summons or an equivalent document had to be
transmitted abroad for the purpose of service, under the pro-
visions 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 71
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 72
action on the merits.

An application for relief may be filed only within a reasonable 73
time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not 74
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 75
capacity of persons.

CHAPTER II ? EXTRAJUDICIAL DOCUMENTS 76

Article 17 77

Extrajudicial documents emanating from authorities and judicial 78
officers of a Contracting State may be transmitted for the pur-
pose of service in another Contracting State by the methods
and under the provisions of the present Convention.

CHAPTER III ? GENERAL CLAUSES 79

Article 18 80

Each Contracting State may designate other authorities in ad- 81

dition to the Central Authority and shall determine the extent of their competence.

82 The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority.

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

84 **Article 19**

85 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.

86 **Article 20**

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

88 a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3,

89 b) the language requirements of the third paragraph of Article 5 and Article 7,

90 c) the provisions of the fourth paragraph of Article 5,

91 d) the provisions of the second paragraph of Article 12.

92 **Article 21**

93 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, 94

b) the designation of the authority competent to complete the certificate pursuant to Article 6, 95

c) the designation of the authority competent to receive documents transmitted by consular channels, pursuant to Article 9. 96

Each Contracting State shall similarly inform the Ministry, where appropriate, of ? 97

a) opposition to the use of methods of transmission pursuant to Articles 8 and 10, 98

b) declarations pursuant to the second paragraph of Article 15 and the third paragraph of Article 16, 99

c) all modifications of the above designations, oppositions and declarations. 100

101 **Article 22**

102 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.

103 **Article 23**

104 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.

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

106 **Article 24**

107 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.

108 **Article 25**

109 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.

110 **Article 26**

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

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

113 **Article 27**

114 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. 115

Article 28 116

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. 117

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. 118

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. 119

Article 29 120

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. 121

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

123 The Convention shall enter into force for the territories men-
tioned in such an extension on the sixtieth day after the notifi-
cation referred to in the preceding paragraph.

124 **Article 30**

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

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

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

128 It may be limited to certain of the territories to which the Con-
vention applies.

129 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.

130 **Article 31**

131 The Ministry of Foreign Affairs of the Netherlands shall give no-
tice to the States referred to in Article 26, and to the States
which have acceded in accordance with Article 28, of the fol-
lowing ?

132 a) the signatures and ratifications referred to in Article 26;

133 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 134
which they take effect;

d) the extensions referred to in Article 29 and the dates on which 135
they take effect;

e) the designations, oppositions and declarations referred to in 136
Article 21;

f) the denunciations referred to in the third paragraph of Article 137
30.

[Post Provisions]

[Post Clauses (If any: Signed; Witnessed; Done; Authentic Texts; & Deposited Clauses)]

In witness whereof the undersigned, being duly authorised 138
thereto, have signed the present Convention.

Done at The Hague, on the 15th day of November, 1965, in 139
the English and French languages, both texts being equally au-
thentic, 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 Con-
ference on Private International Law.

[Annex]

FORMS (REQUEST AND CERTIFICATE) SUMMARY OF THE 140 DOCUMENT TO BE SERVED (annexes provided for Articles 3, 5, 6 and 7)

ANNEX TO THE CONVENTION Forms REQUEST FOR SER- 141

SUMMARY OF THE DOCUMENT TO BE SERVED Convention ¹⁷⁴
on the Service Abroad of Judicial and Extrajudicial Documents
in Civil or Commercial Matters, signed at The Hague, the 15th
of November 1965. (Article 5, fourth paragraph)

175 Name and address of the requesting authority:

176 Particulars of the parties*:

177 JUDICIAL DOCUMENT**

178 Nature and purpose of the document:

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

180 Date and place for entering appearance**:

181 Court which has given judgment**:

182 Date of judgment**:

183 Time-limits stated in the document**:

184 EXTRAJUDICIAL DOCUMENT**

185 Nature and purpose of the document:

186 Time-limits stated in the document**:

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

188 ** Delete if inappropriate.

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