

## ***Convention of 1 March 1954 on civil procedure - Summary***

The 1954 Convention regulates between the Contracting-States the service of documents (articles 1-8), taking of evidence (articles 8-16), security for costs (articles 17-19), free legal aid (articles 20-24) in all civil and commercial matters as well as the free issue of extracts from civil status records (Article 25). Final clauses are regulated in articles 27-33. Regarding the service of documents, the 1954 Convention envisages that the service of documents addressed to persons abroad shall be effected in the Contracting States on request of a consul of the requesting State, made to the authority which is designated by the State addressed. The request, specifying the authority originating the document forwarded, the names and capacities of the parties, the address of the addressee, and the nature of the document in question, shall be in the language of the requested authority. This authority shall send to the consul the certificate showing service or indicating the fact which prevented it. Service shall be effected by the authority which is competent according to the laws of the State addressed. All difficulties which may arise in connection with the consul's request shall be settled through diplomatic channels. Furthermore, any Contracting State may declare, in a communication addressed to the other Contracting States, that it intends that requests for service to be effected on its territory, giving the specifications mentioned in the first paragraph, be addressed to it through diplomatic channels. Nevertheless, these provisions shall not prevent two Contracting States from agreeing to allow direct communication between their respective authorities. Article 3 contains the provision on the request and the documents that shall accompany the request, as well as the issue of language and the translation of these documents. According to Article 6, the provisions of the foregoing Articles shall not interfere with (1) the freedom to send documents, through postal channels, directly to the persons concerned abroad; (2) the freedom of the persons concerned to have service effected directly through the judicial officers or competent officials of the country of destination; (3) the freedom of each State to have service effected directly by its diplomatic or consular agents of documents intended for persons abroad. However, in each of these cases, this freedom shall only exist if allowed by conventions concluded between the States concerned or if, should there be no convention, the State on the territory of which service must be effected does not object. That State may not object when, in the cases mentioned under (3), the document is to be served without any compulsion on a national of the requesting State. Article 7 envisages that the service of judicial documents shall not give rise to reimbursement of taxes or costs of any nature except the use of particular method of service demanded by the requesting State. When it comes to the taking of evidence, the 1954 Convention governs the letter of request, the issue of language and its translation as well as the cost for the taking of evidence analogously to the service of documents provisions. However, according to Article 14, the judicial authority which executes a Letter of Request shall apply its own law to the taking of evidence. Any special method or procedure may be requested unless those contrary to the public policy of the State of execution. In terms of *cautio iudicatum solvi*, nationals of the Contracting-States having a domicile in any State Party are excluded from the security for costs (Article 17). In civil and commercial matters, nationals of the Contracting States shall be granted free legal aid in all the other Contracting

States, on the same basis as nationals of these States, upon compliance with the legislation of the State where the free legal aid is sought (Article 20). Finally, in terms of Article 25, indigent persons who are nationals of one of the Contracting States may obtain on the same terms as nationals of the State concerned extracts from civil status records, without charge. The documents necessary for their marriage shall be legalized without cost by the diplomatic officers or consular agents of the Contracting States.