

Príloha k č. 82/1997 Z. z.

**EUROPEAN CONVENTION
ON INFORMATION ON FOREIGN LAW**

Preamble

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

Considering that the aim of the Council of Europe is the achievement of greater unity between its members;

Convinced that the creation of a system of international mutual assistance in order to facilitate the task of judicial authorities in obtaining information on foreign law, will contribute to the attainment of this aim,

Have agreed as follows:

Article 1

Scope of the Convention

1. The Contracting Parties undertake to supply one another, in accordance with the provisions of the present Convention, with information on their law and procedure in civil and commercial fields as well as on their judicial organisation.

2. However, two or more Contracting Parties may decide to extend as between themselves the scope of the present Convention to fields other than those mentioned in the preceding paragraph. The text of such agreements shall be communicated to the Secretary General of the Council of Europe.

Article 2

National liaison bodies

1. In order to carry out the provisions of the present Convention each Contracting Party shall set up or appoint a single body (hereinafter referred to as the „receiving agency“):

- a. to receive requests for the information referred to in Article 1, paragraph 1, of the present Convention from another Contracting Party;
- b. to take action on these requests in accordance with Article 6.

The receiving agency may be either a ministerial department or other State body.

2. Each Contracting Party may set up or appoint one or more bodies (hereinafter referred to as „transmitting agency“) to receive requests for information from its judicial authorities and to transmit them to the competent foreign receiving agency. The receiving agency may be appointed as a transmitting agency.

3. Each Contracting Party shall communicate to the Secretary General of the Council of Europe the name

and address of its receiving agency and, where appropriate, of its transmitting agency or agencies.

Article 3

Authorities entitled to make a request for information

1. A request for information shall always emanate from a judicial authority, even when it has not been drawn up by that authority. The request may be made only where proceedings have actually been instituted.

2. Any Contracting Party may, if it has not set up or appointed a transmitting agency, indicate, by a declaration addressed to the Secretary General of the Council of Europe, which of its authorities it will deem a judicial authority within the meaning of the preceding paragraph.

3. Two or more Contracting Parties may decide to extend as between themselves the present Convention to requests from authorities other than judicial authorities. The text of such agreements shall be communicated to the Secretary General of the Council of Europe.

Article 4

Contents of a request for information

1. A request for information shall state the judicial authority from which it emanates as well as the nature of the case. It shall specify as exactly as possible the questions on which information concerning the law of the requested State is desired, and where there is more than one legal system in the requested State, the system of the law on which information is requested.

2. The request shall also state the facts necessary both for its proper understanding and for the formulation of an exact and precise reply. Copies of documents may be attached where necessary to clarify the scope of the request.

3. The request may include questions in fields other than those referred to in Article 1, paragraph 1, where they relate to the principal questions specified in the request.

4. Where a request is not drawn up by a judicial authority it shall be accompanied by the decision of that authority authorising it.

Article 5

Transmission of a request for information

A request for information shall be transmitted directly to the receiving agency of the requested State by a

transmitting agency or, in the absence of such an agency, by the judicial authority from which it emanates.

Article 6

Authorities empowered to reply

1. The receiving agency which has received a request for information may either draw up the reply itself or transmit the request to another State or official body to draw up the reply.

2. The receiving agency may, in appropriate cases or for reasons of administrative organisation, transmit the request to a private body or to a qualified lawyer to draw up the reply.

3. Where the application of the preceding paragraph is likely to involve costs, the receiving agency shall, before making the transmission referred to in the said paragraph, indicate to the authority from which the request emanated the private body or lawyer to whom the request will be transmitted, inform the said authority as accurately as possible of the probable cost, and request its consent.

Article 7

Content of the reply

The object of the reply shall be to give information in an objective and impartial manner on the law of the requested State to the judicial authority from which the request emanated. The reply shall contain, as appropriate, relevant legal texts and relevant judicial decisions. It shall be accompanied, to the extent deemed necessary for the proper information of the requesting authority, by any additional documents, such as extracts from doctrinal works and travaux préparatoires. It may also be accompanied by explanatory commentaries.

Article 8

Effects of the reply

The information given in the reply shall not bind the judicial authority from which the request emanated.

Article 9

Communication of the reply

The reply shall be addressed by the receiving agency to the transmitting agency, if the request had been transmitted by this agency, or to the judicial authority, if the request was sent directly by the latter.

Article 10

Duty to reply

1. The receiving agency to whom a request for information has been sent shall, subject to the provisions of Article 11, take action on the request in accordance with Article 6.

2. Where the reply is not drawn up by the receiving

agency, the latter shall be bound to ensure that a reply is sent subject to the conditions specified in Article 12.

Article 11

Exceptions to the obligation to reply

The requested State may refuse to take action on the request for information if its interests are affected by the case giving rise to the request or if it considers that the reply might prejudice its sovereignty or security.

Article 12

Time-limit for the reply

The reply to a request for information shall be furnished as rapidly as possible. However, if the preparation of the reply requires a long time, the receiving agency shall so inform the requesting foreign authority and shall, if possible, indicate at the same time the probable date on which the reply will be communicated.

Article 13

Additional information

1. The receiving agency, as well as the body or the person whom it has instructed to reply, in accordance with Article 6, may request the authority from which the request emanates to provide any additional information it deems necessary to draw up the reply.

2. The request for additional information shall be transmitted by the receiving agency in the same way as is provided by Article 9 for the communication of the reply.

Article 14

Languages

1. The request for information and annexes shall be in the language or in one of the official languages of the requested State or be accompanied by a translation into that language. The reply shall be in the language of the requested State.

2. However, two or more Contracting Parties may decide to derogate, as between themselves, from the provisions of the preceding paragraph.

Article 15

Costs

1. The reply shall not entail payment of any charges or expenses except those referred to in Article 6, paragraph 3, which shall be borne by the State from which the request emanates.

2. However, two or more Contracting Parties may decide to derogate, as between themselves, from the provisions of the preceding paragraph.

Article 16

Federal States

In Federal States, the functions of the receiving agency other than those exercised under Article 2, paragraph 1.a. may, for constitutional reasons, be conferred on other State bodies.

Article 17

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 or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.

3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

Article 18

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.

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 19

Territorial scope of the Convention

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance 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, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 20 of this Convention.

Article 20

Duration of the Convention and denunciation

1. This Convention shall remain in force indefinitely.

2. Any Contracting Party 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.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 21

Functions of the Secretary General
of the Council of Europe

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 or accession;
- c. any date of entry into force of this Convention in accordance with Article 17 thereof;
- d. any declaration received in pursuance of the provisions of paragraph 2 of Article 1, paragraph 3 of Article 2, paragraph 2 of Article 3 and paragraphs 2 and 3 of Article 19;
- e. any notification received in pursuance of the provisions of Article 20 and the date on which denunciation takes effect.

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

Done at London, this 7th June 1968, in French and English, 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.