

No. 12140. CONVENTION ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS. OPENED FOR SIGNATURE AT THE HAGUE ON 18 MARCH 1970¹

RATIFICATION

Instrument deposited with the Government of the Netherlands on:

26 July 1977

LUXEMBOURG

(With effect from 24 September 1977.)

With the following declarations and reservations:

[TRANSLATION² — TRADUCTION³]

In accordance with article 2 the *Parquet général* is designated as the Central Authority.

In pursuance of article 4, paragraph 4, Letters of Request in German shall also be accepted.

In pursuance of article 23, Letters of Request issued for the purpose of obtaining pre-trial discovery of documents as known in Common Law countries shall not be executed.

In accordance with the provisions of article 16, the *Parquet général* is designated as the authority competent to authorise the diplomatic officers or consular agents of a Contracting State to take, without compulsion, the evidence of persons other than the nationals of that State in aid of proceedings commenced in the courts of the State which they represent.

This authorisation, which is given in each specific case and to which specific conditions, where appropriate, are attached, is granted under the following general conditions:

1. The evidence shall be taken only within the precincts of an Embassy or Consulate.
2. The *Parquet général* shall be given reasonable advance notice of the time, date and place of the taking of evidence so that it can, if it wishes, be represented.
3. A request to a person to appear shall, in accordance with the regulations, be in the form of an official document in French or German or accompanied by a translation into one of these languages stating:

- a) that the evidence is to be taken in accordance with the provisions of the Convention on the taking of evidence abroad in civil or commercial matters concluded at The Hague on 18 March 1970,⁴ and in the framework of a judicial procedure followed in a jurisdiction designated by a Contracting State;
- b) that the appearance is voluntary and that no prosecution in the Requesting State will result from failure to appear;
- c) that the parties to the action, where appropriate, consent to the taking of the evidence or are opposed to it for reasons to be given;
- d) that the person requested to appear may be legally represented;
- e) that the person requested to appear may invoke a privilege or a duty to refuse to give evidence.

¹ United Nations, *Treaty Series*, vol. 847, p. 231, and annex A in volumes 861, 949, 1003, 1010 and 1021.

² Translation supplied by the Government of the Kingdom of the Netherlands.

³ Traduction fournie par le Gouvernement du Royaume des Pays-Bas.

⁴ United Nations, *Treaty Series*, vol. 847, p. 231.

In accordance with the provisions of article 17, the *Parquet général* is designated as the authority competent to authorise persons designated in accordance with the regulations as commissioners to take evidence, without compulsion, in aid of proceedings commenced in the courts of another Contracting State.

This authorisation, which is given in the particular case and to which specific conditions, where appropriate, are attached, is granted under the following general conditions:

1. The *Parquet général* shall be given reasonable advance notice of the time, date and place of the taking of evidence so that it can, if it wishes, be represented.

2. A request to a person to appear shall, in accordance with the regulations, be in the form of an official document in French or German or accompanied by a translation into one of these languages stating:

- a) that the evidence is to be taken in accordance with the provisions of the Convention on the taking of evidence abroad in civil or commercial matters concluded at The Hague on 18 March 1970, and in the framework of a judicial procedure followed in a jurisdiction designated by a Contracting State;
- b) that the appearance is voluntary and that no prosecution in the Requesting State will result from failure to appear;
- c) that the parties to the action, where appropriate, consent to the taking of the evidence or are opposed to it for reasons to be given;
- d) that the person requested to appear may be legally represented;
- e) that the person requested to appear may invoke a privilege or a duty to refuse to give evidence.

In pursuance of article 8, members of the judicial personnel of the requesting authority of a Contracting State may be present at the execution of a Letter of Request.

Certified statement was registered by the Netherlands on 12 August 1977.
