

(c) Service shall be effected by the competent authority of the country in which service is to be effected, who shall serve the document in the manner prescribed by the municipal law of such country for the service of similar documents, or, should a wish to that effect be expressed in the request, in a special form which is not incompatible with such law. If the authority to whom a document has been transmitted is not competent to deal with it, such authority will of its own motion transmit the document to the competent authority of his own country.

(d) The execution of the request for service can only be refused if the High Contracting Party in whose territory it is to be effected considers it such as to compromise his sovereignty or safety.

(e) The authority who receives the request shall send to the consular officer the documents proving the service or explaining the reason which has prevented such service. Proof of service shall be furnished by a certificate from the authority of the country in which service is to be effected, setting forth the fact, the manner, and the date of such service. The document to be served, and the translation, if any, shall be forwarded in duplicate, and the certificate shall appear on one of the copies, or be attached to it.

#### Article 4.

No fees of any description shall be payable by one High Contracting Party to the other in respect of the service.

Nevertheless, in the cases provided for in Article 3, the High Contracting Party from whose territory the documents emanate must pay to the High Contracting Party in whose territory they are served any charges and expenses which are payable under the local law to the persons employed to effect service, and any charges and expenses incurred in effecting service in a special manner. These charges and expenses shall be calculated in accordance with the tariff in force for nationals in the country in which service is effected so far as the same is applicable. Repayment of these charges and expenses shall be claimed by the authority of the country in which service is effected from the consular officer making the request when transmitting the certificate provided for in Article 3 (e).

#### Article 5.

The document to be served may also be served on the recipient, if he is a subject or citizen of the High Contracting Party from whose territory the documents emanate, without the application of any compulsion and without the intervention of the authorities of the High Contracting Party in whose territory service is to be effected, by the diplomatic or consular officers of the High Contracting Party from whose territory the documents emanate.

The document shall be drawn up in the language of the country in which service is to be effected, or shall be accompanied by a translation in such language.

#### Article 6.

Service of documents may also be effected by post in cases where this method is permitted by the law of the country from which the document emanates, if the recipient is a subject or citizen of the High Contracting Party from whose territory the document emanates.

### III.—TAKING OF EVIDENCE.

#### Article 7.

When a Court in the territory of one High Contracting Party orders that evidence is to be taken in the territory of the other High Contracting Party, this may be done in either of the ways prescribed in Articles 8 and 10.

#### Article 8.

(a) The Court may, in accordance with the provisions of its law, address itself by means of a letter of request to the competent authority in the territory of the other High Contracting Party, requesting such authority to undertake a judicial inquiry within his jurisdiction.

(b) The letter of request shall be drawn up in the language of the authority applied to, or accompanied by a translation in such language certified as correct by a diplomatic or consular officer of the High Contracting Party from whose Court the request emanates or by an official or sworn translator of one of the countries concerned.

(c) The letter of request shall be transmitted—  
In England by the Turkish Consul in London to the Senior Master of the Supreme Court of Judicature in England:

In Turkey by a British consular officer to the Governor of the province in which his consulate is situated for transmission to the appropriate Turkish authorities.

(d) It shall be incumbent upon the judicial authority to whom the letter of request is addressed to give effect to it by the use of the same compulsory measures as in the execution of a commission or order emanating from the authorities of his own country.

(e) The consular officer by whom the letter of request is transmitted shall, if he so desires, be informed of the date and place where the proceedings will take place, in order that the interested parties may be able to be present or to be represented.

(f) The execution of the letter of request can only be refused—

- (1) If the authenticity of the request is not established;
- (2) If in the country to the authorities of which the request is addressed, the execution of the letter of request does not fall within the functions of the judiciary;
- (3) If the High Contracting Party in whose territory the request is to be executed considers it such as to effect his sovereignty or safety.

(g) In case the authority applied to is without jurisdiction, the letter of request shall be forwarded, without any further request, to the competent authority of the same country in accordance with the rules laid down by the law of that country.

(h) In every instance where the letter of request is not executed by the authority to whom it is transmitted, the latter will at once inform the consular officer by whom the request is transmitted, stating the grounds on which the execution of the commission has been refused, or the judicial authority to whom the commission has been forwarded.

(i) The authority which executes the letter of request will apply, so far as the procedure to be followed is concerned, the law of his own country.

Nevertheless, an application by the authority making the request that some special procedure may be followed shall be acceded to, provided that such procedure is not incompatible with the law of the country where the request is to be executed.

#### Article 9.

(a) No fees of any description shall be payable by one High Contracting Party to the other in respect of the execution of letters of request.

(b) Nevertheless, the High Contracting Party, from whose Court the request emanates, shall repay to the High Contracting Party, in whose territory it is executed, any charges and expenses payable to witnesses, experts, interpreters, or translators, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, and the charges and expenses payable to any person whom the competent judicial authority may have deputed to act in cases where the municipal law permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed.

(c) The repayment of these charges and expenses shall be claimed by the authority of the country in which the request was executed from the consular officer by whom the request was transmitted when delivering the documents establishing the execution of the letter of request. These charges and expenses are calculated in accordance with the tariff in force for nationals in the country in which the request was executed so far as the same is applicable.

#### Article 10.

(a) The evidence may also be taken, without the intervention of the authorities of the High Contracting Party in whose territory it is to be taken, by a diplomatic or consular officer of the High Contracting Party before whose Courts the evidence is to be used.

(b) The diplomatic or consular officer appointed to take the evidence may request named individuals, provided that they are subjects or citizens of the High Contracting Party for whose Courts the evidence is required, to appear as witnesses or to produce any document, and to take an oath, but he has no compulsory powers.

(c) Requests to appear issued by the consular officer will be drawn up in the language of the country where the evidence is to be taken, or accompanied by a translation into such language.

(d) The evidence may be taken in accordance with the procedure laid down by the law of the country in which the evidence is to be used, and the parties will have the right to be present or to be represented by any person who is competent to act before the tribunals of either country concerned.

#### Article 11.

The fact that an attempt to take evidence by the method laid down in Article 10 has failed owing to the refusal of any witnesses to appear, to give evidence, or to produce documents does not preclude an application being subsequently made in accordance with Article 8.