



Treaty Series No. 28 (1937)

Convention

between His Majesty in respect of the United Kingdom
and His Majesty the King of Yugoslavia

regarding

Legal Proceedings in Civil and Commercial Matters

London, February 27, 1936

[Ratifications exchanged at Belgrade on June 18, 1937]

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

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CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE
UNITED KINGDOM AND HIS MAJESTY THE KING OF
YUGOSLAVIA REGARDING LEGAL PROCEEDINGS IN CIVIL
AND COMMERCIAL MATTERS.

London, February 27, 1936.

[*Ratifications exchanged at Belgrade on June 18, 1937.*]

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Yugoslavia by the Council of Regency;

Being desirous to render mutual assistance in the conduct of legal proceedings in civil and commercial matters which are being dealt with or which it is anticipated may be dealt with by their respective judicial authorities;

Have resolved to conclude a Convention for this purpose and have appointed as their Plenipotentiaries :

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India :

For Great Britain and Northern Ireland :

The Right Honourable Anthony Eden, M.C. M.P., His Majesty's Principal Secretary of State for Foreign Affairs;
and

His Majesty the King of Yugoslavia by the Council of Regency :

M. Slavko Grouitch, Envoy Extraordinary and Minister Plenipotentiary in London;
and

M. Milan Kugler, Judge of the Court of Cassation at Zagreb;

Who, having communicated their full powers, found in good and due form, have agreed as follows :—

I.—Preliminary.

ARTICLE 1.

(a) Except where the contrary is expressly stated, this Convention applies only to civil and commercial matters, including non-contentious matters.

(b) In this Convention the words :—

(1) "territory of one (or of the other) High Contracting Party" shall be interpreted (a) in relation to His Majesty the King

Njegovo Veličanstvo Kralj Velike Britanije, Irske i Britanskih prekomorskih Dominionna, Car Indije, i u ime Njegovog Veličanstva Kralja Jugoslavije, Kraljevski Namesnici,

Želeći da urede međusobnu pomoć u vodjenju postupka u građanskim i trgovačkim stvarima koje su u tečaju ili koje mogu biti u tečaju pred Njihovim odnosnim sudskim vlastima;

Odlučili su da u tu svrhu sklope Konvenciju i odredili su kao Svoje Punomoćnike :

Njegovo Veličanstvo Kralj Velike Britanije, Irske i Britanskih prekomorskih Dominionna, Car Indije :-

Za Veliku Britaniju i Severnu Irsku :

Right Honourable Anthony Eden, Njegovog Veličanstva Glavnog državnog sekretara za izvanjske poslove ;

U ime Njegovog Veličanstva Kralja Jugoslavije, Kraljevski Namesnici :

G. Slavka Grujića, izvanrednog poslanika i punomoćnog Ministra u Londonu, i

G. Milana Kuglera, sudiju Stola sedmorice u Zagrebu ;

Koji su, pošto su izmenili svoja punomoćija, nadjena u dobroj i propisnoj formi, saglasili se o sledećem :

I.—Uvodna naredjenja.

ČLAN 1.

(a) U koliko u ovoj Konvenciji protivno nije izrično ustanovljeno, ona će se primeniti samo na građanske i trgovačke stvari, uključivši i nesporne stvari.

(b) U ovoj Konvenciji reči :

(1) " teritorija jedne (ili druge) Visoke Strane Ugovornice " imaju se tumačiti (a) u odnosu prema Njegovom Veličanstvu

of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, as meaning England and Wales and all territories in respect of which the Convention is in force by reason of extensions under Article 17 or accessions under Article 18; and (b) in relation to His Majesty the King of Yugoslavia, the Kingdom of Yugoslavia;

- (2) "persons" shall be deemed to mean individuals and artificial persons;
- (3) "artificial persons" shall be deemed to include partnerships, companies, societies and other corporations;
- (4) "nationals of a High Contracting Party" shall be deemed to include artificial persons constituted or incorporated under the laws of the territory of such High Contracting Party;
- (5) "nationals of one (or of the other) High Contracting Party" shall be deemed (a) in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, to mean all subjects of His Majesty wherever domiciled, and all persons under His protection; and (b) in relation to His Majesty the King of Yugoslavia all Yugoslavian citizens.

II.—*Service of Judicial and Extra-Judicial Documents.*

ARTICLE 2.

(a) When judicial or extra-judicial documents drawn up in the territory of one of the High Contracting Parties are required by a judicial authority situated therein to be served on persons in the territory of the other High Contracting Party, such documents may be served on the recipient, whatever his nationality, by any of the methods provided in Articles 3 and 4 in all cases where such method of service is recognised by the law of the country of origin.

(b) In Part II of this Convention the expression "country of origin" means the country from which the documents to be served emanate, and the expression "country of execution" means the country in which service of documents is to be effected.

ARTICLE 3.

(a) A request for service shall be addressed and sent by a Diplomatic or Consular Officer acting for the country of origin to the competent authority of the country of execution, requesting such authority to cause the document in question to be served.

Kralju Velike Britanije, Irske i Britanskih prekomorskih Dominiona, Caru Indije, tako da se pod njima podrazumevaju Engleska i Velska i sve teritorije za koje je ova Konvencija na snazi usled proširenja u smislu člana 17, ili pristupanja u smislu člana 18, a (b) u odnosu prema Njegovom Veličanstvu Kralju Jugoslavije, da se podrazumeva Kraljevina Jugoslavija;

- (2) "lica" smatraju se da se odnose na fizička i pravna lica;
- (3) "pravna lica" smatraju se da obuhvataju i trgovačka društva, deoničarska društva, zadruge, udruženja i druge korporacije;
- (4) "državljeni Visoke Strane Ugovornice" smatraju se da obuhvataju i pravna lica ustanovljena ili protokolisana prema zakonima teritorije dotične Visoke Strane Ugovornice;
- (5) "državljeni jedne (ili druge) Visoke Strane Ugovornice" smatraju se (a) u odnosu prema Njegovom Veličanstvu Kralju Velike Britanije, Irske i Britanskih prekomorskih Dominiona, Caru Indije da se tu podrazumevaju svi podanici Njegovog Veličanstva, ma gde imali prebivalište i sva lica pod Njegovom zaštitom, a (b) u odnosu prema Njegovom Veličanstvu Kralju Jugoslavije, svi državljani Kraljevine Jugoslavije.

II.—Dostavljanje sudskih i vansudskih akata.

ČLAN 2.

(a) Ako se sudska ili vansudska akta izdana na teritoriji jedne od Visokih Strana Ugovornica imaju na traženje sudske vlasti sa te teritorije dostaviti licima na teritoriji druge Visoke Strane Ugovornice, takva akta mogu se dostaviti adresatu makakvog bio državljanstva, na kojigod od načina predviđenih u članovima 3 i 4 u svima slučajevima gde bi takav način dostavljanja bio priznat po zakonima zemlje molilje.

(b) U delu II ove Konvencije izraz "zemlja molilja" znači zemlju od koje proističu akta koja se imaju dostaviti, a izraz "zamoljena zemlja" znači zemlju u kojoj se dostavljanje akata ima izvršiti.

ČLAN 3.

(a) Molba za dostavljanje treba da bude upravljena i otposlana od diplomatskog ili konsularnog agenta koji radi za zemlju molilju nadležnoj vlasti zamoljene zemlje, moleći tu vlast da nastoji da se dotični akt dostavi.

(b) The request for service shall be drawn up in the language of the country of execution and shall state the names and descriptions of the parties, the name, description and address of the recipient, and the nature of the document to be served, and shall enclose the document to be served either in duplicate or accompanied by a certified copy.

(c) The document to be served shall either be drawn up in the language of the country of execution, or be accompanied by a translation into such language in duplicate. Such translation shall be certified as correct by a Diplomatic or Consular Officer acting for the country of origin.

(d) Requests for service shall be addressed and sent :—

In England to the Senior Master of the Supreme Court of Judicature.

In Yugoslavia to the Ministry of Justice.

If the authority to whom a request for service has been sent is not competent to execute it, such authority shall (except in cases where execution is refused in accordance with paragraph (f) of this Article) of his own motion forward the request to the competent authority of the country of execution.

(e) Service shall be effected by the competent authority of the country of execution, who shall serve the document in the manner prescribed by the law of such country for the service of similar documents, except that, if a wish for some special manner of service is expressed in the request for service, such manner of service shall be followed in so far as it is not incompatible with the law of that country.

(f) The execution of a request for service, duly made in accordance with the preceding provisions of this Article, shall not be refused unless (1) the authenticity of the request for service is not established, or (2) the High Contracting Party in whose territory it is to be executed considers that his sovereignty or safety would be compromised thereby.

(g) In every instance where a request for service is not executed by the authority to whom it has been sent, the latter will at once inform the Diplomatic or Consular Officer by whom the request was sent, stating the ground on which the execution of the request has been refused or the competent authority to whom it has been forwarded.

(h) The authority by whom the request for service is executed shall furnish a certificate proving the service or explaining the reason which has prevented such service, and setting forth the fact, the manner and the date of such service or attempted service, and shall send the said certificate to the Diplomatic or Consular Officer by whom the request for service was sent. The certificate of service or of attempted service shall be placed on one of the duplicate documents or on the certified copy or attached thereto.

●(b) Molba za dostavljanje treba da bude sastavljena na jeziku zamoljene zemlje, a treba da sadrži imena i zanimanje stranaka, ime, zanimanje i adresu adresata i prirodu akta koji se ima dostaviti, i treba da bude priložen akt koji se ima dostaviti ili u duplikatu ili da bude praćen overenim prepisom.

(c) Akt koji se ima dostaviti treba da bude sastavljen ili na jeziku zamoljene zemlje, ili mora biti praćen prevodom na tome jeziku u duplikatu. Takav prevod treba da bude overen od diplomatskog ili konsularnog agenta koji radi za zemlju molilju.

(d) Molbe za dostavljanje moraju biti upravljene i otposlane :

U Engleskoj Senior Master'u of the Supreme Court of Judicature.

U Jugoslaviji Ministarstvu pravde.

Ako vlast kojoj je priposlana molba za dostavljanje ne bi bila nadležna da izvrši dostavu, ona će (izuzevši u slučajevima u kojima je izvršenje uskraćeno u smislu odeljka (f) ovoga člana) iz vlastite pobude uputiti molbu nadležnoj vlasti zamoljene zemlje.

(e) Dostavu će izvršiti nadležna vlast zamoljene zemlje koja će dostaviti akt na način propisan zakonima te zemlje za dostavljanje sličnih akata, osim ako bi u molbi za dostavljanje bila izražena želja za neki naročiti način dostavljanja, dostavljanje će se izvršiti na taj način u koliko to ne bi bilo u protivnosti sa zakonima te zemlje.

(f) Izvršenje molbe za dostavljanje, propisno učinjene prema gornjim odredbama ovoga člana, neće se moći uskratiti, osim ako (1) autentičnost molbe za dostavljanje nije ustanovljena, ili (2) Visoka Strana Ugovornica na čijoj bi se teritoriji dostava imala izvršiti, smatra da bi to bilo na uštrb njenom suverenitetu ili njenoj bezbednosti.

(g) U svakom slučaju kada molba za dostavljanje nije izvršena od vlasti kojoj je bila poslana, potonja će odmah izvestiti diplomatskog ili konsularnog agenta koji je molbu otposlao, navodeći razlog zbog koga je izvršenje molbe bilo uskraćeno, ili pak nadležnu vlast kojoj je molba bila upućena.

(h) Vlast koja je izvršila molbu za dostavljanje izdaće svedodžbu (=akt) koja potvrđuje dostavu ili navodi razlog koji ju je sprečio i pokazuje fakat, način i datum takve izvršene ili pokušane dostave, te će pomenutu svedodžbu priposlati diplomatskom ili konsularnom agentu koji je otposlao molbu za dostavljanje. Svedodžbu o dostavi ili o pokušanoj dostavi treba staviti na jedan od duplikata akta ili na overeni prepis ili njima pripojiti.

ARTICLE 4.

(a) Service may be effected, without any request to or intervention of the authorities of the country of execution, by any of the following methods :—

- (1) By a Diplomatic or Consular Officer acting for the country of origin ;
- (2) Through the post.

(b) All documents served in the manner provided in (1) of the preceding paragraph shall, unless the recipient is a national of the High Contracting Party from whose territory the document to be served emanates, either be drawn up in the language of the country of execution or be accompanied by a translation into such language, certified as correct as prescribed in Article 3 (c).

(c) The High Contracting Parties agree that in principle it is also desirable that the provisions of paragraph (b) of this article should apply to documents served in the manner provided in (2) of paragraph (a) of this Article. Nevertheless, in the absence of any legislation in their respective territories making translations obligatory in such cases, the High Contracting Parties do not accept any obligation in this respect.

(d) It is understood that the question of the validity of any service effected by the use of any of the methods referred to in paragraph (a) of this Article will remain a matter for the free determination of the respective courts of the High Contracting Parties in accordance with their laws.

ARTICLE 5.

(a) In any case where documents have been served in accordance with the provisions of Article 3, the High Contracting Party, by whose Diplomatic or Consular Officer the request for service was addressed, shall repay to the other High Contracting Party any charges and expenses which are payable under the law of the country of execution 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 not exceed such as are usually allowed in the courts of that country.

(b) Repayment of these charges and expenses shall be claimed by the competent authority by whom the service has been effected from the Diplomatic or Consular Officer by whom the request was addressed, when sending to him the certificate provided for in Article 3 (h).

(c) Except as provided above, no fees of any description shall be payable by one High Contracting Party to the other in respect of the service of any documents.

ČLAN 4.

(a) Dostavljanje može biti izvršeno bez molbe vlastima zamoljene zemlje ili bez njihovog posredovanja na jedan od sledećih načina :

- (1) Preko diplomatskog ili konsularnog agenta koji radi za zemlju molilju ;
- (2) Preko pošte.

(b) Sva akta dostavljena na način predviđen pod (1) u prethodnom odeljku moraju biti ili sastavljena na jeziku zamoljene zemlje ili praćena prevodom na tome jeziku overenom kako je to propisano u članu 3 (c), izuzevši ako je adresat državljanin Visoke Strane Ugovornice sa čije je teritorije akt potekao.

(c) Visoke Strane Ugovornice slažu se da je takodje u načelu poželjno da bi se naredjenja odeljka (b) ovoga člana primenila na akta dostavljena na način predviđen pod (2) odeljka (a) ovoga člana. Bez obzira na to, ako u njihovim odnosnim teritorijama nema nikakvih zakonskih propisa koji bi činili obaveznim prevodjenje u takvim slučajevima, Visoke Strane Ugovornice ne primaju nikakvu obavezu u tome pogledu.

(d) Podrazumeva se da će pitanje pravovaljanosti neke dostave izvršene upotrebom jednog od načina na koji se odnosi odeljak (a) ovoga člana ostati stvar slobodne ocene dotičnog suda Visokih Strana Ugovornica u saglasnosti sa svojim zakonima.

ČLAN 5.

(a) U onim slučajevima u kojima su akta bila dostavljena prema naredjenjima člana 3, Visoka Strana Ugovornica čiji je diplomatski ili konsularni agent upravio molbu za dostavljanje, naknadiće drugoj Visokoj Strani Ugovornici troškove i izdatke koji se po zakonu zamoljene zemlje imaju platiti licu postavljenom da izvrši dostavljanje, kao i troškove i izdatke koji su nastali izvršenjem dostave na neki naročiti način. Ovi troškovi i izdaci ne smeju biti veći od onih koji su obično dozvoljeni u sudovima zamoljene zemlje.

(b) Naknadu ovih troškova i izdataka tražiće nadležna vlast koja je izvršila dostavu od diplomatskog ili konsularnog agenta koji je upravio molbu u času kada mu šilje svedodžbu prema odredbi člana 3 (h).

(c) Izuzevši gore propisano, nijedna Visoka Strana Ugovornica nema da plati drugoj nikakve takse makakve vrste zbog dostavljanja nekog akta.

III.—Taking of Evidence.

ARTICLE 6.

(a) When a judicial authority in the territory of one of the High Contracting Parties requires that evidence should be taken in the territory of the other High Contracting Party, such evidence may be taken, whatever the nationality of the parties or witnesses may be, in any one of the ways prescribed in Article 7 or 8.

(b) In Part III of this Convention, the expressions—

- (1) "Taking of evidence" shall be deemed to include the taking of the statements of a plaintiff, defendant, expert or any other person on oath or otherwise; the submission to a plaintiff, defendant, expert or any other person of any oath with regard to any legal proceedings and the production, identification and examination of documents, samples or other objects.
- (2) "Witness" shall be deemed to include any person from whom any evidence, as defined above, is required to be taken.
- (3) "Country of origin" shall be deemed to mean the country by whose judicial authority the evidence is required, and "country of execution," the country in which the evidence is to be taken.

ARTICLE 7.

(a) The judicial authority of the country of origin may, in accordance with the provisions of the law of his country, address himself by means of a Letter of Request to the competent authority of the country of execution, requesting such authority to take the evidence.

(b) The Letter of Request shall be drawn up in the language of the country of execution, or be accompanied by a translation into such language. Such translation shall be certified as correct by a Diplomatic or Consular Officer acting for the country of origin. The Letter of Request shall state the nature of the proceedings for which the evidence is required, giving all necessary information in regard thereto, the names of the parties thereto, and the names, descriptions and addresses of the witnesses. They shall also either (1) be accompanied by a list of interrogatories to be put to the witness or witnesses, or, as the case may be, by a description of the documents, samples or other objects to be produced, identified or examined, and a translation thereof, certified as correct in the manner heretofore provided; or (2) shall request the competent authority to allow such questions to be asked *vivâ voce* as the parties or their representatives shall desire to ask.

III.—Izvodjenje dokaza.

ČLAN 6.

(a) Ako sudska vlast sa teritorije jedne od Visokih Strana Ugovornica traži izvodjenje dokaza na teritoriji druge Visoke Strane Ugovornice, takav se dokaz može izvoditi, makakvog državljanstva bile stranke ili svedoci na jedan od načina propisanih u članovima 7 ili 8.

(b) U delu III ove Konvencije izraz :

- (1) "Izvodjenje dokaza" smatra se da obuhvata uzimanje izjava od tužioca, tuženika, veštaka, ili nekog drugog lica pod zakletvom ili na drugi način; zaklinjanje tužioca, tuženika, veštaka, ili drugog nekog lica obzirom na neki pravni postupak i podnošenje, identifikacija i ispitivanje isprava, uzoraka, ili drugih stvari.
- (2) "Svedok" smatra se da obuhvata svako lice čije se svedočenje traži u smislu gore navedenog.
- (3) "Zemlja molilja" smatra se da znači zemlju čije sudske vlasti traže dokaz, a "zamoljena zemlja" zemlju u kojoj se dokaz ima izvesti.

ČLAN 7.

(a) Sudska vlast zemlje molilje može da se prema zakonskim propisima svoje zemlje obrati molbenim pismom nadležnoj vlasti zamoljene zemlje, moleći tu vlast da izvede dokaz.

(b) Molbeno pismo treba da je sastavljeno na jeziku zamoljene zemlje ili da je propraćeno prevodom na tome jeziku. Ovakav prevod treba da je overen od diplomatskog ili konsularnog agenta koji radi za zemlju molilju. Molbeno pismo treba da sadrži prirodu postupka za koji se traži dokaz, dajući sva potrebna obaveštenja u vezi s tim, imena stranaka u toj stvari, i imena, zanimanje i adresu svedoka. Ono treba da je ili (1) propraćeno spiskom pitanja koja se imaju postaviti svedoku ili svedocima, ili, obzirom na prirodu slučaja, opisom isprava, uzoraka, ili drugih stvari koje se imaju podneti, identifikovati, ili ispitati i prevodom od toga overenim na način koji je ovde propisan, ili (2) treba da zamoli nadležnu vlast da dozvoli da takva pitanja budu stavljena *viva voce* kako će to stranke ili njihovi zastupnici želeti da stave.

(c) Letters of Request shall be transmitted—

In England by a Yugoslav Diplomatic or Consular Officer to the Senior Master of the Supreme Court of Judicature.

In Yugoslavia by a British Consular Officer to the Ministry of Justice.

In case the authority to whom any Letter of Request is transmitted is not competent to execute it, such authority shall (except in cases where execution is refused in accordance with paragraph (f) of this Article) of his own motion forward the Letter of Request to the competent authority of the country of execution.

(d) The competent authority of the country of execution shall give effect to the Letter of Request and obtain the evidence required by the use of the same compulsory measures and the same procedure as are employed in the execution of a commission or order emanating from the authorities of his own country, except that if a wish that some special procedure should be followed is expressed in the Letter of Request, such special procedure shall be followed in so far as it is not incompatible with the law of the country of execution.

(e) The Diplomatic or Consular Officer, by whom the Letter of Request is transmitted, shall, if he so desires, be informed of the date when and the place where the proceedings will take place, in order that he may inform the interested party or parties, who shall be permitted to be present in person or to be represented, if they so desire, by any representatives who are competent to appear before the courts either of the country of origin or of the country of execution.

(f) The execution of a Letter of Request which complies with the preceding provisions of this Article can only be refused—

- (1) If the authenticity of the Letter of Request is not established;
- (2) If, in the country of execution, the execution of the Letter of Request in question does not fall within the functions of the judiciary;
- (3) If the High Contracting Party in whose territory it is to be executed considers that his sovereignty or safety would be compromised thereby.

(g) In every instance where a Letter of Request is not executed by the authority to whom it is addressed, the latter will at once inform the Diplomatic or Consular Officer by whom it was transmitted, stating the grounds on which the execution of the Letter of Request has been refused, or the competent authority to whom it has been forwarded.

(h) When a Letter of Request has been executed, the competent authority to whom it was transmitted or forwarded shall send to the Diplomatic or Consular Officer by whom it was transmitted the necessary documents establishing its execution.

(c) Molbena pisma treba da se dostave :

U Engleskoj preko Jugoslovenskog diplomatskog ili konsularnog agenta Senior Master'u of the Supreme Court of Judicature.

U Jugoslaviji preko Britanskog konsularnog agenta Ministarstvu pravde.

U slučaju da vlast kojoj je dostavljeno molbeno pismo ne bi bila nadležna da ga izvrši, ona će (izuzevši u slučajevima u kojima je izvršenje uskraćeno u smislu odeljka (f) ovoga člana) iz vlastite pobude uputiti molbeno pismo nadležnoj vlasti zamoljene zemlje.

(d) Nadležna vlast zamoljene zemlje ima izvršiti molbeno pismo i izvoditi traženi dokaz upotrebom istih prinudnih mera i istog postupka koji se primenjuje pri izvršenju molbenih pisama ili odredaba koje potiču od vlasti njene vlastite zemlje, osim ako je u molbenom pismu izražena želja da se postupi po nekom naročitom postupku, po takvom naročitom postupku postupiće se u koliko to ne bi bilo u protivnosti sa zakonima zamoljene zemlje.

(e) Diplomatski ili konsularni agent koji je poslao molbeno pismo, izvestiće se, ako on to želi, o vremenu kada će se i o mestu gde će se voditi postupak, da bi mogao izvestiti zainteresovanu stranku ili stranke kojima će biti dozvoljeno da prisustvuju lično ili, ako one to žele, da budu zastupane predstavnicima koji imaju pravo da pristupe sudovima bilo zemlje molilje bilo zamoljene zemlje.

(f) Izvršenje molbenog pisma koje je sačinjeno prema gornjim propisima ovoga člana moći će se uskratiti jedino :

- (1) Ako autentičnost molbenog pisma nije ustanovljena;
- (2) Ako u zamoljenoj zemlji izvršenje dotičnog molbenog pisma ne ulazi u delokrug rada sudske vlasti;
- (3) Ako Visoka Strana Ugovornica na čijoj bi se teritoriji molbeno pismo imalo izvršiti smatra da bi to bilo na uštrb njenom suverenitetu ili njenoj bezbednosti.

(g) U svakom onom slučaju gde molbeno pismo nije izvršeno od vlasti kojoj je upućeno, potonja će odmah izvestiti diplomatskog ili konsularnog agenta koji joj je molbeno pismo uputio, navodeći razloge zbog kojih je izvršenje molbenog pisma bilo uskraćeno, ili pak nadležnu vlast kojoj je molbeno pismo bilo upućeno.

(h) Ako je molbeno pismo bilo izvršeno, nadležna vlast kojoj je isto bilo priposlano ili upućeno otposlaće diplomatskom ili konsularnom agentu preko kojeg joj je molbeno pismo bilo priposlano, potrebne isprave u potvrdu njegovog izvršenja.

ARTICLE 8.

(a) The evidence may also be taken, without any request to or the intervention of the authorities of the country of execution by a Diplomatic or Consular Officer in that country acting for the country of origin appointed for this purpose by the court in that country.

(b) An officer so appointed to take evidence may request the individuals named by the court appointing him to appear before him and to give evidence. He may take all kinds of evidence which are not contrary to the law of the country of execution. The attendance and giving of evidence before any such officer shall be entirely voluntary and no measures of compulsion shall be employed.

(c) Requests to appear issued by such officer shall, unless the recipient is a national of the High Contracting Party for whose judicial authority the evidence is required, be drawn up in the language of the country of execution or be accompanied by a translation into such language.

(d) The evidence may be taken in accordance with the procedure recognised by the law of the country of origin, and the parties will have the right to be present in person or to be represented by any representatives who are competent to appear before the courts either of the country of origin or of the country of execution.

ARTICLE 9.

The fact that an attempt to take evidence by the method laid down in Article 8 has failed owing to the refusal of any witness to appear or to give evidence does not preclude a request being subsequently made in accordance with Article 7.

ARTICLE 10.

(a) Where evidence is taken in the manner provided in Article 7 the High Contracting Party, by whose judicial authority the Letter of Request was addressed, shall repay to the other High Contracting Party any expenses incurred by the competent authority of the latter in the execution of the request in respect of 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 such authority may have deputed to act, in cases where the law of the country of execution permits this to be done, and any charges and expenses incurred by reason of a special procedure being requested and followed. These expenses shall be such as are usually allowed in similar cases in the courts of the country of execution.

(b) The repayment of these expenses shall be claimed by the competent authority by whom the Letter of Request has been

ČLAN 8.

(a) Dokaz će takodje moći izvoditi bez molbe vlastima zamoljene zemlje ili njihovog posredovanja i diplomatski ili konsularni agent u toj zemlji koji radi za zemlju molilju postavljen u tu svrhu od suda zemlje molilje.

(b) Agent tako postavljen da izvodi dokaz može umoliti lica imenovana od suda koji ga je postavio da dodju pred njega i da dadu dokaz. On može izvoditi sve vrste dokaza koji nisu protivni zakonima zamoljene zemlje. Pristustvo i davanje dokaza pred takvim agentom biće potpuno dragovoljno i nikakva prinudna sretstva nemaju se primeniti.

(c) Molbe za pristupanje koje su izdane od takvog agenta imaju biti sastavljene na jeziku zamoljene zemlje ili praćene prevodom na tome jeziku, osim ako je adresat državljanin Visoke Strane Ugovornice za čiju se sudsku vlast traži dokaz.

(d) Dokaz se može izvoditi prema postupku koji je priznat po zakonu zemlje molilje, i stranke će imati pravo da prisustvuju lično ili da budu zastupane predstavnicima koji imaju pravo da pristupe sudovima bilo zemlje molilje bilo zamoljene zemlje.

ČLAN 9.

Činjenica da nije uspeo pokušaj da se izvede dokaz na način opisan u članu 8 iz razloga što neki svedok nije hteo da pristupi ili da svedoči, ne isključuje naknadnu molbu učinjenu prema članu 7.

ČLAN 10.

(a) Ako je dokaz izvodjen na način predvidjen u članu 7, Visoka Strana Ugovornica čija je sudska vlast upravila molbeno pismo nadoknadiće drugoj Visokoj Strani Ugovornici sve izdatke koji su nastali kod nadležne vlasti ove potonje u izvršenju te molbe i to sve troškove i izdatke plative svedocima, veštacima, tumačima, ili prevodiocima, troškove da se postigne pristup svedoka koji nisu dragovoljno došli i troškove i izdatke plative svakome licu kome je takva vlast naložila da radi u slučajevima gde zakon zamoljene zemlje dozvoljava da se to čini i sve troškove i izdatke koji su nastali usled naročitog postupka koji je bio zatražen i po kome se postupilo. Ovi izdaci treba da budu takvi kakvi su obično dozvoljeni u sličnim slučajevima pred sudovima zamoljene zemlje.

(b) Naknadu ovih troškova treba da traži nadležna vlast koja je izvršila molbeno pismo od diplomatskog ili konsularnog agenta koji

executed from the Diplomatic or Consular Officer by whom it was transmitted when sending to him the documents establishing its execution as provided in Article 7 (h).

(c) Except as above provided no fees of any description shall be payable by one High Contracting Party to the other in respect of the taking of evidence.

IV.—*Provisions relating to Equality of Treatment in Judicial Matters.*

ARTICLE 11.

Legal Protection and Access to the Courts of Justice.

(a) The nationals of one High Contracting Party shall enjoy in the territories of the other the same rights in respect of the legal protection of person and property, and shall have free access to the courts of justice for the prosecution or defence of their rights under the same conditions (including the taxes and fees payable), as nationals of the latter High Contracting Party.

(b) This Article applies to criminal as well as to civil and commercial matters.

ARTICLE 12.

Security for Costs.

(a) The nationals of one High Contracting Party resident in a territory of the other, where the proceedings are brought, shall not be compelled to give security for costs or court fees in any case where a national of such other High Contracting Party would not be so compelled in similar circumstances.

(b) The nationals of one High Contracting Party, resident outside the territory of the other, where the proceedings are brought, shall not be obliged to give security for costs or court fees in any case where they possess in that territory "immoveable property" or other property not readily transferable which is sufficient to cover these costs and fees.

(c) It is understood that the interpretation of the expressions "immoveable property" and "property not readily transferable" is a matter within the exclusive competence of the respective courts of the High Contracting Parties.

ARTICLE 13.

Free Legal Assistance.

(a) The nationals of one High Contracting Party shall enjoy in the territories of the other High Contracting Party a perfect equality

ga je priposlao kada mu pošlje isprave koje dokazuju da je ono izvršeno kako je to predviđeno u članu 7 (h).

(c) Izuzevši ono što je gore određeno nikakve takse bilo kakve vrste nema jedna Visoka Strana Ugovornica platiti drugoj u vezi sa izvođenjem dokaza.

IV.—*Propisi koji se odnose na jednakost u postupanju u sudskim stvarima.*

ČLAN 11.

Zakonska zaštita i pristup sudovima.

(a) Državljeni jedne Visoke Strane Ugovornice uživae na teritoriji druge ista prava u pogledu zakonske zaštite ličnosti i svojine i imaće slobodan pristup sudovima radi traženja ili odbrane svojih prava pod istim uslovima (uključivši plative takse i troškove) kao i državljani potonje Visoke Strane Ugovornice.

(b) Ovaj član primeniće se podjednako na krivične kao i na građanske i trgovačke stvari.

ČLAN 12.

Obezbedjenje parničnih troškova.

(a) Državljeni jedne Visoke Strane Ugovornice koji prebivaju na teritoriji druge gde je postupak u tečaju ne smeju biti prinudjeni da daju obezbedjenje za parnične troškove ili sudske takse u slučaju gde državljani takve druge Visoke Strane Ugovornice ne bi pod sličnim okolnostima bili na to prinudjeni.

(b) Državljeni jedne Visoke Strane Ugovornice koji prebivaju izvan teritorije druge gde je postupak u tečaju neće biti prinudjeni da daju obezbedjenje za parnične troškove ili sudske takse u slučaju kada oni poseduju u toj teritoriji "nepokretnu imovinu," ili drugu imovinu koja nije lako prenosiva a koja je imovina dovoljna za pokriće ovih troškova i taksa.

(c) Podrazumeva se da je tumačenje izraza "nepokretna imovina" i "imovina koja nije lako prenosiva" stvar koja spada u isključivu nadležnost dotičnih sudova Visokih Strana Ugovornica.

ČLAN 13.

Siromaško pravo.

(a) Državljeni jedne Visoke Strane Ugovornice uživae na teritoriji druge Visoke Strane Ugovornice u pogledu siromaškog prava

of treatment with nationals of the latter High Contracting Party as regards free legal assistance for poor persons.

(b) The provisions of this Article apply to criminal as well as to civil and commercial matters, but do not apply to artificial persons.

ARTICLE 14.

Imprisonment for Debt.

(a) The nationals of one High Contracting Party shall not in the territories of the other High Contracting Party be liable to imprisonment as a means of execution for debt or as a conservatory measure in any case where the nationals of the other High Contracting Party would not be so liable.

(b) The provisions of this Article do not apply to artificial persons.

V.—General Provisions.

ARTICLE 15.

Any difficulties which may arise in connexion with the operation of this Convention shall be settled through the diplomatic channel.

ARTICLE 16.

The present Convention, of which the English and Yugoslav texts are equally authentic, shall be subject to ratification. Ratifications shall be exchanged in Belgrade. The Convention shall come into force two months after the date on which ratifications are exchanged and shall remain in force for three years after the date of its coming into force. If neither of the High Contracting Parties shall have given notice through the diplomatic channel to the other not less than six months before the expiration of the said period of three years of his intention to terminate the Convention, it shall remain in force until the expiration of six months from the day on which either of the High Contracting Parties shall have given notice to terminate it.

ARTICLE 17.

(a) This Convention shall not apply *ipso facto* to Scotland, Northern Ireland, the Channel Islands and the Isle of Man, nor to any of the Colonies, overseas territories or Protectorates of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, nor to any territories under His suzerainty, nor to any Mandated territories in

● punu jednakost u postupanju sa državljanima potonje Visoke Strane Ugovornice.

(b) Odredbe ovoga člana primenjuju se podjednako na krivična kao i na građanske i trgovačke stvari, ali ne primenjuju se na pravna lica.

ČLAN 14.

Pritvor zbog dugova.

(a) Državljeni jedne Visoke Strane Ugovornice neće podležati na teritoriji druge Visoke Strane Ugovornice pritvoru kao sretstvu za izvršenje zbog dugova ili kao preventivnom sretstvu u slučaju u kome državljani druge Visoke Strane Ugovornice ne bi tome podležali.

(b) Odredbe ovoga člana ne primenjuju se na pravna lica.

V.—Opšta naredjenja.

ČLAN 15.

Makakve teškoće koje bi mogle nastati u vezi sa primenom ove Konvencije urediće se diplomatskim putem.

ČLAN 16.

Ova Konvencija čiji će engleski i jugoslovenski tekstovi biti podjednako autentični podvrgnuće se ratifikaciji. Ratifikacione isprave izmeniće se u Beogradu. Konvencija će stupiti na snagu dva meseca od dana koga su izmenjene ratifikacione isprave i ostaće u važnosti tri godine od dana kada je stupila na snagu. Ako nijedna od Visokih Strana Ugovornica ne bi saopštila drugoj diplomatskim putem najmanje šest meseci pre isteka ovoga roka od tri godine svoju nameru da obustavi važenje Konvencije, ona će ostati u važnosti do isteka od šest meseci od dana koga bude jedna od Visokih Strana Ugovornica saopštila da se obustavi njeno važenje.

ČLAN 17.

(a) Ova Konvencija ne važi *ipso facto* za Škotsku, Severnu Irsku, Ostrva u Lamanšu i za Ostrvo Man, niti za makoju Koloniju, prekomorsku teritoriju ili Protektorat Njegovog Veličanstva Kralja Velike Britanije, Irske i Britanskih prekomorskih Dominionia, Cara Indije, niti za makoju teritoriju pod Njegovim suzerenitetom, niti za makoju Mandatornu teritoriju nad kojom se mandat izvršuje od Njegove

respect of which the mandate is exercised by His Government in the United Kingdom, but His Majesty may at any time, while this Convention is in force under Article 16 by a notification given through His Minister at Belgrade, extend the operation of the Convention to any of the above-mentioned territories.

(b) Such notification shall state the authorities in the territory concerned to whom requests for service under Article 3 or Letters of Request under Article 7 are to be transmitted, and the language in which communications and translations are to be made. The date of the coming into force of any such extension shall be two months from the date of such notification.

(c) Either of the High Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph (a) of this Article, terminate such extension on giving six months' notice of termination through the diplomatic channel.

(d) The termination of the Convention under Article 16 shall, unless otherwise expressly agreed to by both High Contracting Parties, *ipso facto* terminate it in respect of any territories to which it has been extended under paragraph (a) of this Article.

ARTICLE 18.

(a) The High Contracting Parties agree that His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, may at any time, while the present Convention is in force, either under Article 16 or by virtue of any accession under this Article, by a notification given through the diplomatic channel, accede to the present Convention in respect of any other Member of the British Commonwealth of Nations whose Government may desire that such accession should be effected, provided that no notification of accession may be given at any time when His Majesty the King of Yugoslavia has given notice of termination in respect of all the territories of His Majesty to which the Convention applies. The provisions of Article 17 (b) shall be applicable to such notification. Any such accession shall take effect two months after the date of its notification.

(b) After the expiry of three years from the date of the coming into force of any accession under paragraph (a) of this Article, either of the High Contracting Parties may, by giving six months' notice of termination through the diplomatic channel, terminate the application of the Convention to any country in respect of which a notification of accession has been given. The termination of the Convention under Article 16 shall not affect its application to any such country.

(c) Any notification of accession under paragraph (a) of this Article may include any dependency or mandated territory administered by the Government of the country in respect of which

Vlade u Ujedinjenoj Kraljevini, ali Njegovo Veličanstvo može u svako doba dok je ova Konvencija u smislu člana 16 na snazi, notifikacijom danom preko Njegovog Ministra u Beogradu proširiti dejstvo Konvencije na makoju od gore pomenutih teritorija.

(b) Ovakva notifikacija treba da naznači vlasti na dotičnoj teritoriji kojima će se priposlati molbe za dostavljanje u smislu člana 3, ili molbena pisma u smislu člana 7, i jezik na kome se imaju činiti saopštenja i prevodi. Dan koga će tako proširenje stupiti na snagu biće dva meseca od dana notifikacije.

(c) Svaka od Visokih Strana Ugovornica moći će u svako doba po isteku od tri godine otkada je proširenje ove Konvencije stupilo na snagu za makoju teritoriju pomenutu u odeljku (a) ovoga člana obustaviti dejstvo takvog proširenja šestomesečnim otkazom učinjenim diplomatskim putem.

(d) Obustavljanje dejstva Konvencije (=otkaz) prema članu 16 u koliko nije drugojačije izričito utanačeno izmedju obe Visoke Strane Ugovornice, obustaviće *ipso facto* njeno dejstvo naspram svih teritorija na koje je bila proširena prema odeljku (a) ovoga članka.

ČLAN 18.

(a) Visoke Strane Ugovornice saglasne su da Njegovo Veličanstvo Kralj Velike Britanije, Irske i prekomorskih Britanskih Dominionu, Car Indije, može u svako doba dok je ova Konvencija na snazi, ili prema članu 16, ili po sili pristupanja prema ovome članu notifikacijom danom diplomatskim putem pristupiti ovoj Konvenciji odnosno makoga drugog člana Britanskog Komonvelta Naroda čija bi Vlada želela da se takav pristup izvrši, pretpostavljajući da se nikakva notifikacija za pristupanje ne može dati u ono doba kada je Njegovo Veličanstvo Kralj Jugoslavije dalo otkaz za sve teritorije Njegovog Veličanstva na koje se Konvencija primenjuje. Naredjenja člana 17 (b) valja primeniti na ovakvu notifikaciju. Svako takvo pristupanje stupiće na snagu dva meseca od dana njegove notifikacije.

(b) Iza isteka od tri godine od dana stupanja na snagu makoga pristupanja prema odeljku (a) ovoga člana moći će svaka od Visokih Strana Ugovornica šestomesečnim otkazom, učinjenim diplomatskim putem, obustaviti primenu Konvencije za makoju zemlju odnosno koje je dana notifikacija o pristupanju. Obustavljanje dejstva (=otkaz) Konvencije prema članu 16 ne prouzrokuje obustavljanje njenog dejstva za makoju takvu zemlju.

(c) Svaka notifikacija pristupanja prema odeljku (a) ovoga člana može obuhvatati svaku zavisnu ili mandatornu teritoriju pod upravom Vlade te zemlje odnosno koje je takva notifikacija o pristupanju dana,

such notification of accession is given; and any notice of termination in respect of any such country under paragraph (b) shall apply to any dependency or mandated territory which was included in the notification of accession in respect of that country.

In witness whereof the undersigned have signed the present Convention, in English and Yugoslav texts, and have affixed thereto their seals.

Done in duplicate at London, the 27th day of February, 1936.

(L.S.) ANTHONY EDEN.

(L.S.) SLAVKO Y. GROUITCH.

(L.S.) MILAN KUGLER.

a) ako otkazivanje odnosno takve zemlje prema odeljku (b) primeniće se na svaku zavisnu ili mandatnu teritoriju koja je bila uključena u notifikaciji o pristupanju u odnosu na tu zemlju.

U potvrdu čega potpisani su potpisali ovu Konvenciju u engleskom i jugoslovenskom tekstu i pridali svoje pečate.

Radjeno u duplikatu u Londonu dana 27 februara 1936 god.

(L.S.) ANTHONY EDEN.

(L.S.) SLAVKO Y. GROUITCH

(L.S.) MILAN KUGLER.