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Treaty Series No. 39 (1978)

European Agreement on the Transmission of Applications for Legal Aid

Strasbourg, 27 January 1977

[The United Kingdom instrument of ratification was deposited on 17 January 1978 and the Agreement entered into force for the United Kingdom on 18 February 1978]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1978*

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**EUROPEAN AGREEMENT
ON THE TRANSMISSION OF APPLICATIONS
FOR LEGAL AID**

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

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members;

Considering that it is desirable to eliminate existing economic obstacles to civil proceedings and to permit persons in an economically weak position more easily to exercise their rights in member States;

Believing that the creation of an appropriate system of transmission of applications for legal aid would contribute to the attainment of this aim,

Have agreed as follows :

ARTICLE 1

Every person who has his habitual residence in the territory of one of the Contracting Parties and who wishes to apply for legal aid in civil, commercial or administrative matters in the territory of another Contracting Party may submit his application in the State where he is habitually resident. That State shall transmit the application to the other State.

ARTICLE 2

1. Each Contracting Party shall designate one or more transmitting authorities to forward applications for legal aid direct to the foreign authority designated below.

2. Each Contracting Party shall also designate a central receiving authority to receive, and to take action on, applications for legal aid coming from other Contracting Parties.

Federal States and States which have more than one legal system shall be free to designate more than one authority.

ARTICLE 3

1. The transmitting authority shall assist the applicant in ensuring that the application is accompanied by all the documents known by it to be required to enable the application to be determined. It shall also assist the applicant in providing any necessary translation of the documents.

It may refuse to transmit the application if it appears to be manifestly not made in good faith.

2. The central receiving authority shall transmit the application to the authority which is competent to determine the application. It shall inform the transmitting authority of any difficulty relating to the examination of the application and of the decision taken on the application by the competent authority.

ARTICLE 4

All documents forwarded in pursuance of the present Agreement shall be exempt from legalisation or any equivalent formality.

ARTICLE 5

No charges shall be made by the Contracting Parties in respect of services rendered under this Agreement.

ARTICLE 6

1. Unless there are particular agreements between the authorities concerned of Contracting Parties and subject to the provisions of Articles 13 and 14:

- (a) the application for legal aid and the documents attached thereto and any other communications shall be drawn up in the official language or in one of the official languages of the receiving authority or be accompanied by a translation into that language;
- (b) each Contracting Party shall nevertheless accept the application for legal aid and the documents attached thereto and any other communications when they are drawn up in English or in French or are accompanied by a translation into one of these languages.

2. Communications emanating from the State of the receiving authority may be drawn up in the official language or one of the official languages of that State or in English or French.

ARTICLE 7

In order to facilitate the application of this Agreement the central authorities of the Contracting Parties agree to furnish each other with information on the state of their law governing legal aid.

ARTICLE 8

The authorities referred to in Article 2 shall be designated by means of a declaration addressed to the Secretary General of the Council of Europe when the State concerned becomes Party to the Convention in accordance with the provisions of Articles 9 and 11. Any change in the powers of the authorities shall likewise be declared to the Secretary General of the Council of Europe.

ARTICLE 9

1. This Agreement shall be open to signature by the member States of the Council of Europe, who may become Parties to it either by:

- (a) signature without reservation in respect of ratification, acceptance or approval;

(b) signature with reservation in respect of ratification, acceptance or approval followed by ratification, acceptance or approval.

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

ARTICLE 10

1. This Agreement shall enter into force one month after the date on which two member States of the Council shall have become Parties to the Agreement in accordance with the provisions of Article 9.

2. As regards any member State who shall subsequently sign the Agreement without reservation in respect of ratification, acceptance or approval or who shall ratify, accept or approve it, the Agreement shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

ARTICLE 11

1. After the entry into force of this Agreement 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 one month after the date of its deposit.

ARTICLE 12

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession specify the territories to which this Agreement shall apply.

2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Agreement 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. Any extension shall come into force within one month after receipt of the declaration.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the notification.

ARTICLE 13

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession declare that it

excludes wholly or partly the application of the provisions of Article 6, paragraph 1(b). No other reservation may be made to this Agreement.

2. Any Contracting Party may wholly or partly withdraw the reservation it has made by means of a declaration addressed to the Secretary General of the Council of Europe. The reservation shall cease to have effect as from the date of receipt of the declaration.

3. When a Contracting Party has made a reservation any other Party may apply the same reservation with respect to that Party.

ARTICLE 14

1. A Contracting Party which has more than one official language may for the purpose of applying Article 6, paragraph 1(a) by means of a declaration specify the language in which the application and documents attached thereto or a translation thereof shall be expressed to enable them to be transmitted to the specified parts of its territory.

2. The declaration provided for in the preceding paragraph shall be addressed to the Secretary General of the Council of Europe at the time of signature of the Agreement by the interested State or when depositing its instrument of ratification, acceptance, approval or accession. The declaration may be withdrawn or amended according to the same procedure.

ARTICLE 15

1. Any Contracting Party may, in so far as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary General of the Council of Europe.

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

ARTICLE 16

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Agreement of:

- (a) any signature without reservation in respect of ratification, acceptance or approval;
- (b) any signature with reservation in respect of ratification, acceptance or approval;
- (c) the deposit of any instrument of ratification, acceptance, approval or accession;
- (d) any declaration made in pursuance of the provisions of Article 8;
- (e) any date of entry into force of this Agreement in accordance with Article 10;
- (f) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 12;
- (g) any reservation made in pursuance of the provisions of paragraph 1 of Article 13;

- (h) the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 13;
- (i) any declaration received in pursuance of the provisions of Article 14;
- (j) any notification received in pursuance of the provisions of Article 15 and the date on which denunciation takes effect.

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

Done at Strasbourg, this 27th day of January 1977, in English and in French, 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.

SIGNATURES AND RATIFICATIONS

| <i>State</i> | <i>Date of Signature</i> | <i>Date of deposit of Ratification</i> |
|--|------------------------------|--|
| Belgium* | 27 Jan 1977 | |
| France* | 27 Jan 1977 | |
| Greece | 27 Jan 1977 | |
| Luxembourg | 27 Jan 1977 | |
| Norway* | 27 Jan 1977 | 24 June 1977 |
| Portugal* | 27 Apr 1977 | |
| Sweden | 27 Jan 1977 | |
| Turkey* | 27 Jan 1977 | |
| United Kingdom*† | 27 Jan 1977 | 17 Jan 1978 |

* Subject to ratification or acceptance

† With declaration.

DECLARATION UNITED KINGDOM

On depositing the instrument of ratification, the Permanent Representative made the following declaration:

"In accordance with the provisions of Article 2(1) and (2) of the Agreement the following authorities shall be the designated authorities which shall act in the United Kingdom of Great Britain and Northern Ireland as transmitting and receiving authorities:

For England and Wales:

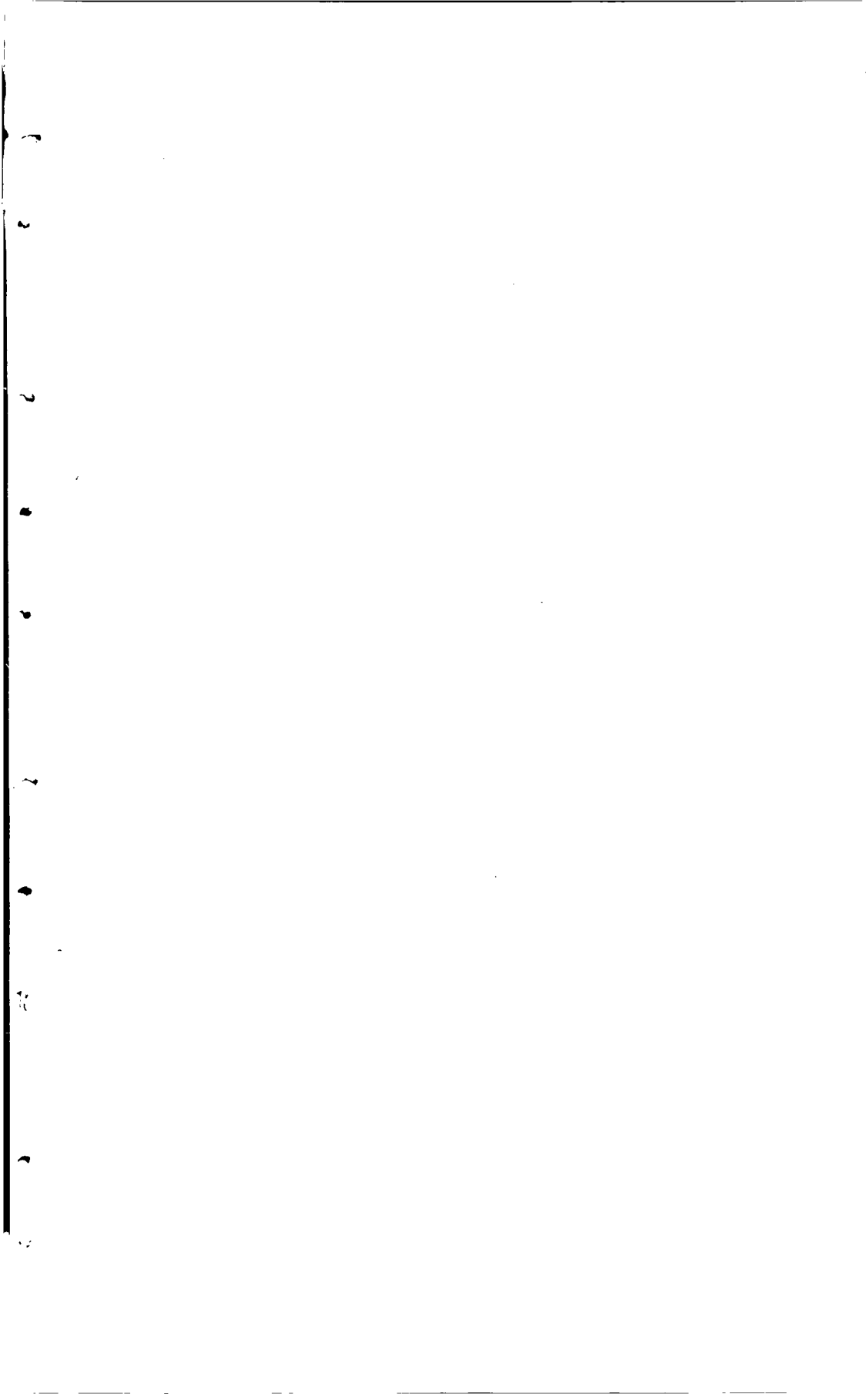
The Secretary
The Law Society
The Law Society's Hall
Chancery Lane
London WC2A 1PL

For Scotland:

The Secretary
The Scottish Legal Aid Central Committee
26 Drumsheugh Gardens
Edinburgh EH3 7YR

For Northern Ireland:

The Secretary
Incorporated Law Society of Northern Ireland
Royal Courts of Justice (Ulster)
Belfast."



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