

graph (4. of this article, may limit its action to effecting service by the transmission of the document to the recipient if he is willing to accept it.

(4) If the document to be served is drawn up in the State (official) language of the State applied to, or is accompanied by a translation in such language, the court or authority applied to shall serve the document, in accordance with such wish as may be expressed in the request, either in the manner prescribed by its laws for the service of similar documents, or in a special form which is not incompatible with such law. Should such wish not be expressed, the court or authority applied to will endeavor to effect service as provided in paragraph (3).

The translation provided for in the preceding paragraph shall be certified as correct by a diplomatic or consular agent of the State making the request or by an official or sworn translator of one or other of the two States.

(5) The request for service can only be refused if the State in whose territory it is to be effected considers it such as to compromise its sovereignty or safety.

(6) Proof of service shall be furnished by a certificate from the court or authority of the State applied to, setting forth the fact, the manner and the date of such service.

The document to be served 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 State to the other in respect of the service under Article 3.

Nevertheless the State making the request must pay to the State applied to any charges which are payable under the local law to the persons employed to effect service, or which were incurred by effecting service in a special form. These charges are calculated in accordance with the tariff in force for nationals of the State applied to. Repayment of these charges will be claimed by the Court or authority applied to from the court or authority which made the request, through the consular authority, when transmitting to the latter the certificate provided for in article 3 (6).

Article 5.

The document to be served may also be delivered to the recipient, whatever his nationality in person, without the intervention of the courts or authorities of the State in whose territory service is to be effected:—

(a) By the diplomatic or consular agents of the State making the request; or

(b) As far as this is not opposed to the law of the State making the request, by a solicitor (advokat) or notary of the other State appointed by the courts or authorities of the State making the request or by the party on whose application the document was issued, either generally or in any particular case.

In order that the document may be served in accordance with this article, it must be drawn up in the State (official) language of the State in whose territory service is to be effected, or must be accompanied by a translation in such language, unless the recipient is a national of the State making the request.

Article 6.

Service of documents may also be effected by post in cases where this method is permitted by the law of the State in which the document is issued.

III.—Taking of Evidence.

Article 7.

When a court or authority in one of the contracting States orders that evidence is to be taken in the territory of the other State, this may be done in any one of the ways prescribed in articles 8, 10 and 11.

Article 8.

(1) The court or authority of one contracting State may, in accordance with the provisions of its law, address itself by means of a "commission rogatoire" to the competent court or authority of the other contracting State, requesting it to take the evidence within its jurisdiction.

(2) The "commission rogatoire" shall be drawn up in the State (official) lan-

guage of the State applied to, or be accompanied by a translation in such language, certified as correct by a diplomatic or consular officer of the State making the request, or by an official or sworn translator of one of the two States. If it is not accompanied by such a translation, one may be made by the State applied to if the other State so requests.

(3) The "commission rogatoire" shall be transmitted—

In England, by the Czechoslovak consul in London to the senior master of the Supreme Court of Judicature in England;

In the Czechoslovak Republic, by the British Consul to the Ministry of Justice of the Czechoslovak Republic at Prague.

(4) It shall be incumbent upon the court or authority to whom the "commission rogatoire" is addressed to give effect to it, if necessary, by the use of the same compulsory measures as in the execution of a commission emanating from the courts or authorities of its own State.

(5) The consular authority of the State making the request will, if he so desires, be informed of the date and place when and where the proceedings will take place, in order that the interested parties may be able to be present.

(6) The execution of the "Commission rogatoire" can only be refused:—

(a) If the authenticity of the document is not established;

(b) If in the State applied to the execution of the "commission rogatoire" does not fall within the functions of the courts or authorities;

(c) If the State applied to considers it such as to affect its sovereignty or safety.

(7) In case the court or authority applied to is not competent, the "commission rogatoire" will be forwarded without any further request to the competent court or authority of the State applied to.

(8) In every instance where the "commission rogatoire" is not executed by the court or authority applied to, the latter will at once inform the consular authority of the State making the request, stating the grounds on which the execution of the commission has been refused or has proved impossible, or the court or authority to whom the commission has been forwarded.

(9) The court or authority which executes the "commission rogatoire" will apply, so far as the procedure to be followed is concerned, the law of its own country.

Nevertheless, an application by the court or 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 State applied to.

Article 9.

No fees of any description shall be demanded by the courts or authorities of one state from the other in respect of the execution of the execution of "commissions rogatoires".

Nevertheless, the State making the request shall repay to the State applied to any charges and expenses payable to witnesses, experts, interpreters, or translators, the costs of obtaining the attendance of witnesses who have not appeared voluntarily, expenses incurred by the adoption of a special procedure in accordance with article 3 (9), and the charges payable to any person whom the court or authority applied to may have deputed to act in cases where its law permits this to be done.

The repayment of these expenses is to be claimed by the court or authority applied to from the court or authority making the request, through the consular authority, when transmitting to the latter the documents establishing the execution of the "commission rogatoire". These charges are calculated in accordance with the tariff in force for nationals of the State applied to.

Article 10.

(1) Further, without the intervention of the courts or authorities of the State in whose territory the evidence is to be taken, this may be done by a consular agent of the other State.

(2) The agent referred to in paragraph (1) may request the parties or any other individual to appear as a witness, or to give expert evidence, or to produce any document or proof, and he may administer the oath to the parties, witnesses, or experts, but he has no compulsory powers.

(3) Summonses to appear issued in accordance with paragraph (2) must be drawn up in the State (official) language of the State where the evidence is to be taken or accompanied by a translation into such language, unless the recipient is a national of the State making the request.

(4) The evidence may be taken in accordance with the procedure laid down by the law of the State in which the evidence is to be used, and the parties will have the right to be represented by barristers or solicitors of that State.

Article 11.

(1) The competent court or authority of the State applied to may also itself be requested to cause the evidence to be taken by a consular agent of the State making the request.

(2) In this case the court or authority applied to will take the necessary steps to secure the attendance of the parties, witnesses or experts and the production of documents or proofs, making use, if necessary, of the compulsory powers to which it is entitled.

(3) The agent referred to in paragraph (1) may administer the oath to any party, witness, or experts who is willing to take it.

(4) The provisions of article 10 (4) are also applicable to proceedings under this article.

Article 12.

The fact that an attempt to take evidence by the method laid down in article 10 has failed owing to the refusal of any parties, witnesses or experts to appear or to give evidence, or to produce documents or proofs, does not preclude an application being subsequently made in accordance with articles 8 or 11.

IV.—General Provisions.

Article 13.

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

Article 14.

(1) The present Convention, of which the English and Czechoslovak texts are equally authentic, shall come into force three months after the date on which ratifications are exchanged, and shall remain in force for three years after its coming into force. In case neither of the high contracting parties shall have given notice to the other six months before the expiration of the said period 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 such notice.

(2) This convention shall not apply to Scotland or Northern Ireland, nor to any of the dominions, colonies, possessions or protectorates of His Britannic Majesty, but His Britannic Majesty may at any time extend by a simple notification, this convention to Scotland, Northern Ireland, or any such dominion, colony, possession or protectorate.

Such notification shall state the date on which such extension shall come into force, the authorities to whom judicial and extra-judicial acts and "commissions rogatoires" are to be transmitted, and the language in which communications to the authorities of the territory concerned and translations are to be made.

Either of the high contracting parties may, at any time after the expiry of three years from the coming into force of the extension of this convention to Scotland, Northern Ireland or any of His Britannic Majesty's dominions, colonies, possessions or protectorates, terminate such extension on giving six months' previous notice.

(3) The preceding stipulations relating to the extension of this convention to Scotland or Northern Ireland, or to any of the dominions, colonies, possessions or protectorates of His Britannic Majesty, shall also apply to any territory