

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation

- (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
- (b) to supply information that is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or
- (c) to supply information that would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same way as if its own taxation were involved, even though the other State does not, at that time, need such information. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

4. The preceding paragraphs of this Article shall likewise apply to assistance carried out under penal investigation procedures carried out by either judicial (including assistance in respect of pending judicial proceedings in tax matters) or administrative bodies. However, requests for arrests of persons are not covered by the Convention.

5. The Contracting States undertake to lend each other support and assistance in the collection of taxes to the extent necessary to ensure that relief granted by the Convention from taxation imposed by a Contracting State does not enure to the benefit of persons not entitled thereto, provided that:

- (a) the requesting State shall produce a copy of a document certified by its competent authority specifying that the sums referred to for the collection of which it is requesting the intervention of the other State, are finally due and enforceable;
- (b) a document produced in accordance with the provisions of this paragraph shall be rendered enforceable with the laws of the requested State. It is specified that under current Austrian legislation, such documents must be rendered enforceable by the Regional Finance Directorates (Finanzlandesdirektionen);
- (c) the requested State shall effect recovery in accordance with the rules governing the recovery of similar tax debts of its own; however, tax debts to be recovered shall not be regarded as privileged debts in the requested State. In the Republic of Austria, judicial execution shall be requested by the Finanzprokuratur or by the finance office delegated to act on his behalf; and
- (d) appeals concerning the existence or amount of the debt shall lie only to the competent tribunal of the requesting State.