

III.—*Taking of Evidence*

ARTICLE 8

When a Court in any territory (to which the Convention applies) of one of the Contracting Parties orders that evidence should be taken in any territory (to which this Convention applies) of the other Contracting Party, this may be done in any one of the ways prescribed in Articles 9, 11 and 12.

ARTICLE 9

(a) The Court may, in accordance with the provisions of its own law, address itself by means of "Letters of Request" to the competent authority of the other Contracting Party, requesting it to take the evidence within its jurisdiction.

(b) The "Letters of Request" shall be drawn up in the language of the authority to whom they are addressed, or be accompanied by a translation in such language certified as correct by a diplomatic or consular officer of the Contracting Party making the request, or by an official or sworn translator of one of the two countries concerned.

(c) The "Letters of Request" shall be transmitted:—

In England by a German diplomatic or consular officer to the Senior Master of the Supreme Court of Judicature in England;

In Germany by a British consular officer to the President of the German Landgericht.

(d) It shall be incumbent upon the judicial authority to whom the "Letters of Request" are addressed to give effect thereto by the use of the same compulsory measures as are employed in the execution of a commission or order emanating from the authorities of his own country.

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

(f) The execution of the "Letters of Request" can only be refused:—

(1) If the authenticity of the "Letters of Request" is not established;

(2) If in the country where the evidence is to be taken, the execution of the "Letters of Request" in question does not fall within the functions of the judiciary;

(3) If the Contracting party applied to considers that his sovereignty or safety would be compromised thereby.

(g) In case the authority to whom they are addressed is without jurisdiction, the "Letters 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 its law.

(h) In every instance where the "Letters of Request" are not executed by the authority to whom they are addressed, the latter will at once inform the diplomatic or consular officer by whom the "Letters of Request" were transmitted, stating the grounds on which the execution of the "Letters of Request" has been refused, or the judicial authority to whom they have been forwarded.

(i) The authority which executes the "Letters 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 applied to.

ARTICLE 10

No fees of any description shall be payable by one Contracting Party to the other in respect of the execution of any "Letters of Request."