

(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 High Contracting Party in whose territory the evidence is to be taken considers that his sovereignty or safety would be compromised thereby.

(g) 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 Consular Officer by whom they 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.

ARTICLE 8

(a) The evidence may also be taken, without any request to or the intervention of the authorities of the country in which it is to be taken, by a person in that country directly appointed for the purpose by the court by whom the evidence is required. A Consular Officer of the High Contracting Party whose court requires the evidence or any other suitable person may be so appointed.

(b) A person so appointed to take evidence may request the individuals named by the court appointing him to appear before him and give evidence. He may take all kinds of evidence which are not contrary to the law of the country where the evidence is being taken and shall have power to administer an oath.

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

(d) The evidence may be taken in accordance with the procedure recognized by the law of the country for whose judicial authority the evidence is required, and the parties will have the right to be present or to be represented by barristers or solicitors of that country or by any persons competent to appear before the courts of either of the countries concerned.

(e) It is understood that where the method of taking evidence referred to in this Article is employed, the procedure must be entirely voluntary and no measures of compulsion can be employed and the admissibility of evidence so taken remains a matter for the determination of the respective courts of the High Contracting Parties in accordance with their law.

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 "Letters of Request" are 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 his own country 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 where the evidence has been taken.