**Disclaimer: The official version of the law and any amendments thereto is published in Arabic in the Official Gazette. This version of the law, including amendments thereto, is provided for guidance and easy reference purposes. The Legislation & Legal Opinion Commission does not accept any liability for any discrepancy between this version and the official version as published in the Official Gazette and / or any inaccuracy or errors in the translation.**

**For any corrections, remarks, or suggestions, kindly contact us on translate@lloc.gov.bh**

**Published on the website on May 2024**

**Law No. (9) of 2005 Ratifying the Convention on Juridical and Judicial Cooperation in Civil and Commercial Matters regarding the notification of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards. between the Government of the Kingdom of Bahrain and the Government of the Republic of India.**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

Having reviewed the Constitution;

The Convention on Juridical and Judicial Cooperation in Civil and Commercial Matters regarding the notification of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards. between the Government of the Kingdom of Bahrain and the Government of the Republic of India ، signed in New Delhi on 13 January 2004;

The Shura Council and the Council of Representatives have approved the following law, which we have ratified and enacted:

**Article One**

The Convention on Juridical and Judicial Cooperation in Civil and Commercial Matters regarding the notification of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards. between the Government of the Kingdom of Bahrain and the Government of the Republic of India signed in New Delhi on 13 January 2004, annexed to this Law, was ratified.

**Article Two**

The ministers- each within his jurisdiction- shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa,**

Issued at Riffa Palace:

On: 9 Rabi' al-Akhir 1426 A.H.

Corresponding to: 17 May 2005

**Convention on Juridical and Judicial Cooperation in Civil and Commercial Matters regarding the notification of Summons, Judicial Documents, Commissions, Execution of Judgements and Arbitral Awards. between the Government of the Kingdom of Bahrain and the Government of the Republic of India.**

The Government of the Kingdom of Bahrain and the Government of the Republic of India (hereinafter referred to as the Contracting States),

Out of desire to strengthen the bonds of friendship between the two countries, and promoting fruitful cooperation in the Juridical and Judicial fields,

Recognising the need to facilitate the judicial assistance in civil and commercial matters to the full extend,

Have agreed as follows:

**Article (1)**

1- The Contracting States shall grant the other under this Convention as much mutual juridical assistance regarding civil and commercial matters as possible in accordance with their national laws.

2- Assistance under this Convention shall apply in:

a- notification of summons and other judicial documents or processes;

b- taking of evidence by means of submitting a request or a letters rogatory

c- execution of judicial rulings, arbitrators' rulings and settlements.

3- The provisions of this Convention shall be without prejudice to any rights or obligations of either Contracting States arising under any international treaties, conventions or other arrangements.

4- This Convention shall apply to any request for mutual juridical assistance relating to any civil or commercial matter arising either prior to or after its entry into force.

**Article (2)**

1- Requests for legal assistance shall be made through the central Authorities of the Contracting States.

2- In the Kingdom of Bahrain, the central authority is the Ministry of Justice, and in the Republic of India, it is the Ministry of Law and Justice.

3- Unless otherwise stipulated, all documents relating to legal assistance shall be signed and sealed with the seal of the competent court and notarised by the central authority of the requesting State.

4- Submission of all applications and supporting documents shall be in two copies, including a translation into one of the official languages of the requested State.

**Article (3)**

1- Summonses and other judicial documents in both Contracting States shall be drawn up by:

A- The Ministry of Justice for the Kingdom of Bahrain.

B-The court in whose jurisdiction the concerned person resides in case of the Republic of India.

2- The notification of summons and other judicial documents shall be done in accordance with the legal procedures of the requested State, or according to the particular method desired by the requesting State, unless this is incompatible with the law of the requested State.

3- The summonses and other judicial documents served in conformity with the provisions of this Convention shall be considered as if they had been served in the requesting State.

4- The provisions of paragraph (1) of this article shall not prejudice the right of either Contracting State to notify, through its diplomatic or consular representatives, such judicial declarations and other documents to its citizens residing in the other State, without compulsion, and in such case no liability shall be imposed on the State.

5- Without prejudice to the provisions of paragraph (2) of this article, summonses and other judicial documents may be notified directly by post or delivered to the requested person, who shall receive them voluntarily and without any compulsion.

6- Any dispute relating to the affiliation of the person to be notified to the nationality of the State to which the notification is made according to its jurisdiction, the settlement is made according to the law of that State.

**Article (4)**

The request for the notification of summon and the other judicial documents shall include all the details of the person to be notified, including his name, title, place of residence or business of the addressee and a list of documents and papers to be notified to him.

If the requesting State requires a special method of notification, this shall be indicated in the request.

**Article (5)**

1- The execution of a request for summons and judicial proceedings in accordance with the provisions of this Convention shall not be refused only if the requested State rejected, unless it would contradict its sovereignty, security or public order.

2- A request for a notification shall not be rejected merely because it does not include sufficient legal grounds to support the merits of the lawsuit.

3- If the notification is not executed, the requested State shall notify the requesting State of the reasons.

**Article (6)**

1- The competent authority of the requested State shall notify the above-mentioned documents and papers in accordance with the provisions of the laws and regulations in force in this respect, without charging any fees or costs for that purpose.

2- The notification may be executed in a special form or method specified by the requesting State, provided that this is not in violation of the laws of the requested State and that the requesting State shall cover the expenses of such notification.

**Article (7)**

1- The powers of the competent authority of the requested State shall be limited to the delivery of judicial documents to the person requested to be notified.

2- Delivery shall be proved either by the signature of the addressee on the copy of the judicial document or paper, or by a certificate issued by the competent authority stating the name of the addressee, the date and mode of delivery, and where such delivery could not be executed, the reasons for the non-delivery shall be indicated.

3- A copy of the judicial documents or paper signed by the addressee or a certificate proving delivery shall be sent to the requesting authority through the Central Authority.

**Article (8)**

1- The judicial authorities of each of the Contracting States may, in accordance with the provisions of their law, submit to the competent judicial authorities of the other State a request to take the evidence relating to the institution of judicial proceedings in civil and commercial matters for the purpose of obtaining evidence.

2- For the purposes of this Convention, the following evidence shall be obtained:

a- Taking the statements, on oath or otherwise, of a witness.

b- Administering of oath to the witness, with regard to any legal proceedings.

c- the production, examination and identification of documents, records and samples relating to the required evidence submitted by the person whose evidence is required in accordance with clauses (a) and (b) of this paragraph.

3- The request shall specify the following:

a- the judicial or other competent authority requesting the evidence.

b- the nature of the proceedings for which the evidence is required, and all the necessary information related thereto.

c- the names and addresses of parties involved in the proceedings.

d- the evidence to be obtained.

e- the names and addresses of persons whose testimonies are to be heard.

4- When deemed necessary, the request shall be accompanied by a list of questions to ask the witnesses or other persons involved, or a statement of the subject matter about which they are to be examined and the related documents.

5- The request shall indicate whether the evidence required is to be taken on oath or affirmation.

**Article (9)**

The judicial proceedings which are conducted by way of judicial delegation in accordance with the provisions of this Convention shall have the same legal effects as if they were conducted by a competent authority in the requesting State.

**Article (10)**

1- The competent authorities of the requested State shall execute the request in accordance with the provisions of its laws, and the evidence required shall be obtained in the same manner and according to the same procedures permitted by the laws, including the same coercive measures.

2- The requested State shall follow the special form or procedures explicitly specified in the request, so far as it does not contradict with its laws and practices.

3- The request should be executed as expeditiously as possible.

4- The requesting State shall be informed - if it so wishes - of the time and place of the proceedings so that the parties concerned and their representatives, if any, may attend; the parties concerned, or their representatives, they shall also be informed directly of this information if the requesting State requires.

5- If the request is executed, the necessary documents proving that the execution has taken place must be sent to the requesting State.

6- In any case where the request is not executed, in whole or in part, the requesting State shall be informed immediately, indicating the reasons for this.

Article (11)

1- The execution of the request can only be refused if:

a- The execution of the request does not fall within the jurisdiction of the judicial authorities.

b- The execution of the request would, in the view of the requested State, prejudice the sovereignty or security of that State.

2- It is not permissible to refuse the execution of the request merely because the national law of the State grants it exclusive jurisdiction over the same matter, or because its law does not allow a dispute in this respect.

**Article (12)**

The execution of the request or the obtaining of evidence by the requested State shall not involve any compensation, fees, expenses or costs of any kind on the part of the requesting State. However, the requested State shall have the right to request recovery of the following items:

A- Any expenses or charges paid to the witnesses, experts or interpreters.

B- Any expenses incurred to secure the attendance of the witnesses using compulsory methods.

C- any expenses or costs incurred by following a special procedure stipulated in the request.

**Article (13)**

Diplomatic or consular representatives of any of the Contracting States may obtain from the nationals of the State which they represent the evidence in the territory of the other Contracting State, without compulsion, for the purpose of assisting in the accomplishment of judicial proceedings pending before the courts of the State which they represent.

**Article (14)**

A person duly authorised by the courts of one of the Contracting States shall be entitled, without compulsion, to obtain evidence in the territory of the other State in accordance with its legislation.

**Article (15)**

1- Each of the Contracting States shall in accordance with its national law recognise and enforce judgments given by the courts of the other State in civil, commercial and personal status matters, including judgments pronounced by the criminal courts in civil matters.

2- The term "judgment" in this Convention means any decision, by whatever name called, rendered by a competent court in either Contracting State in judicial proceedings.

3- The provisions of this Convention shall not apply to interim or provisional measures, except in matters of taxation and financial allocations.

**Article (16)**

In disputes involving the question of capacity or status of the person, the courts of the State of which that person is a national at the time of institution of the lawsuit shall be competent in those matters,

**Article (17)**

The courts of the State in where the real estate is situated shall be competent to determine the rights relating to that real estate.

**Article (18)**

In matters other than capacity or status of a person or immovable property, the courts of a Contracting State shall have jurisdiction in the following cases:

A- If the defendant has his domicile or residence in the territory of that State at the time of institution of the lawsuit.

B- If the defendant has at the time of the institution of the lawsuit, a place or a branch of commercial or industrial nature in the territory of that State, and the lawsuit relates to such activity.

C- If the contractual obligations which are the subject of the litigation, according to an express or implied agreement between the claimant and the defendant, have been performed or are to be performed in the territory of that State.

D-If the act is committed in the territory of that State in case of non-contractual liability.

E- if the defendant expressly or impliedly submitted to the jurisdiction of the courts of that State, and the law of that State allows such submission.

F- any application for provisional measures, if the courts of such State are deemed competent to hear the principal dispute, by virtue of the provisions of this Convention.

**Article (19)**

Without prejudice to the provisions of this Convention, the courts of the State requested to recognise or enforce the judgment shall, when considering the grounds of jurisdiction relied on by the courts of the other Contracting State, be bound by the facts stated in this judgment and on which such jurisdiction is based, unless the said judgment was given in absentia.

**Article (20)**

A decree shall not be recognised or executed in the following cases:

A- If it is not conclusive and executable.

B- If it has not been pronounced by a Competent Court.

C- If it has not been based on the facts of the lawsuit.

D-If it appears from the documents that the proceedings are based on an erroneous view of the international law, or involve a refusal to recognise the laws of the requested State where such laws are applicable.

E- If the proceedings on which the judgment is based contradict the principles of natural law.

F- If it has been obtained by fraud.

G- If it is issued in support of a request which involves a violation of one of the laws in force or in violation of the constitutional rules or principles of public policy of the requested State.

H- If it contravenes the rules governing the legal representation of legally incompetent persons in the requested State.

I- if it was issued in absentia without having duly informed the convicted person in accordance with the laws in force in his State.

J- If the dispute which was the subject of the judgment was pending in a lawsuit filed in one of the courts of the State addressed and concerned with the same subject matter and the parties, and if the dispute was previously filed in one of the courts of the State addressed on a date prior to its presentation before the court of the State in which the judgment was delivered, and provided that the court to which the dispute was submitted has jurisdiction to hear it.

**Article (21)**

Procedures relating to the recognition or enforcement of judgments are governed by the laws of the requested State.

**Article (22)**

1- The competent judicial authority of the State addressed to recognise or enforce the judgment shall confine its role to verifying the conformity of the judgment with the rules set out in this Convention without re-examining the merits of the lawsuit.

2- The competent judicial authority of the State requested to enforce the judgment shall comply with the same enforcement procedures in force for the pronouncement of the judgment as if the judgment were given on its territory.

3- An order may be made to enforce the judgment in whole or in part if it is severable.

**Article (23)**

The Central Authority of the State requesting the recognition or enforcement of the judgment shall provide the requested State with the following information:

A- An official copy of the judgment.

B- A certificate stating that the judgment is final and enforceable, unless otherwise stated in the judgment itself.

C- In the event of a judgment in the defendant's absentia, a certified copy of the declarations and other documents attesting that the defendant has been duly notified.

D- If the request is limited to the enforcement of the judgment, the official copy of the judgment shall be attached to the enforcement form.

**Article (24)**

1- The settlement brought before the competent judicial authority to rule on shall be recognised and enforced at any of the two Contracting States in accordance with its law after verifying that the settlement is enforceable in the State where it was made and that it does not contradict the constitutional rules or public policy of the requested State.

2- The State requesting recognition or enforcement of the settlement shall provide an official copy of it, accompanied by a certificate from the judicial authority stating what has been done or discharged in relation to the judgment or settlement.

**Article (25)**

1- The judgments made in the territory of one of the Contracting States by the arbitrators shall be recognised and enforceable in the territory of the other Contracting State, provided that:

A- The arbitrators' judgment shall be issued based on a written agreement between the two parties to the dispute requiring recourse to arbitration to settle a specific or future dispute arising out of their legal relation.

B- That the judgment was rendered in matters where arbitration is permitted in accordance with the law of the State whose recognition and enforcement is requested and in an incompatible manner with the public policy of that State.

2- The State requesting recognition and enforcement of the arbitral judgment shall submit a copy of the judgment, attached to a certificate issued by the competent authority of the requesting State attesting that the judgment is enforceable, and a certified copy of the parties’ agreement to the dispute which authorises the arbitrators to settle the dispute.

**Article (26)**

1- This Convention is subject to ratification in accordance with the constitutional procedures and practices in each of the Contracting States and the instruments of ratification shall be exchanged through diplomatic channels as soon as possible. It shall come into force on the date of exchange of these documents.

2- Either of the Contracting States may terminate this Convention by giving six months' notice thereof through diplomatic channels to the other Contracting State. Upon the expiry of such notice, the Convention shall cease to have any force or effect.

3- Any difficulties or dispute in the application or interpretation of this Convention shall be settled amicably between the Contracting States through diplomatic channels. In witness whereof, the undersigned, being duly authorised thereto by their respective governments, have signed this Convention. in New Delhi on 13 January 2004, in two original each in the Hindi, Arabic and English languages, all texts being equally authentic. However, in case of difference, the English text shall prevail.

**For the Government of the Kingdom of Bahrain**

**For the Government of the Republic of India**