

**Extract from Act No. 5 of 13 August 1915 relating to courts of justice (Courts of Justice Act)**

**Section 46.** Unless otherwise decided by the King, letters of request from foreign courts of justice or other foreign authorities shall be complied with only when they have been sent through the appropriate Norwegian government ministry.

Unless decided otherwise or required by the nature of the act requested, the letter of request is to be sent to the local district court. When considerations of expediency indicate that more than one court is competent, the ministry shall determine before which court the act shall take place. The court shall examine on its own whether it is competent to perform the act. The decision of the court may be appealed against by the government ministry concerned. If the court finds that the request should have been referred to another court or authority, it may forward the request to that party.

The proceedings shall be carried out in accordance with Norwegian law. Notifying the parties is not necessary, unless expressly requested. If a particular formality or procedure is expressly requested, this request must be complied with to the extent possible, unless prohibited by Norwegian law.

The King may issue detailed rules on letters of request from foreign authorities. The King may also decide that such letters of request may be addressed directly to the courts.

The aforementioned provisions do not pertain to the enforcement of foreign court decisions and temporary measures to ensure such enforcement. Nor do they pertain to the extradition of persons sentenced or prosecuted abroad for criminal acts or to the use of coercive measures pursuant to the Act relating to legal procedure in criminal cases (Criminal Procedure Act).

Pursuant to Protocol 5 Article 25 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and Court of Justice, the EFTA Court may request the taking of evidence directly from the competent court.

Amended by Acts No. 9 of 13 June 1975, No. 24 of 1 June 1979, No. 113 of 27 November 1992 (in force 1 January 1994), No. 98 of 14 December 2001 (in force 1 January 2002 pursuant to Royal Decree No. 1416 of 14 December 2001), No. 90 of 17 June 2005 (in force 1 January 2008 pursuant to Royal Decree No. 88 of 26 January 2007).



**Section 47.** The court that is hearing a case may decide to apply to have evidence taken by a foreign authority. If the case is not before any court, upon application, such a decision may be made by the district court in the locality where the applicant resides or that is the legal venue for the case.

Before the decision is made, in civil disputes the court shall give the opposing party an opportunity to make a statement, and in criminal cases the court shall give same to the prosecuting authority, the accused and defence counsel, if defence counsel has been appointed.

The party requesting the taking of evidence must furnish security for the costs, if the court so requests.

Amended by Acts No. 2 of 13 February 1976, No. 98 of 14 December 2001 (in force 1 January 2002 pursuant to Royal Decree No. 1416 of 14 December 2001), No. 90 of 17 June 2005 (in force 1 January 2008 pursuant to Royal Decree No. 88 of 26 January 2007).

**Section 48.** If a court decides pursuant to Section 47 to request a foreign authority to take evidence, the request shall be prepared by the court itself, though if the court has more than one member, by the lead judge. The request shall be sent through the Government ministry concerned, unless otherwise decided by the King.

The request must contain a brief account of the case and precisely indicate what the court is requesting to be undertaken.

If the court finds that the formalities prescribed by Norwegian law provide a particular safeguard, it should request that they be complied with, if such is within the power of said foreign authority. In particular, the opposing party should be able to attend to his interests in accordance with Norwegian law.

Moreover, provisions of agreements with foreign states or of rules issued by the King shall be complied with.

The taking of evidence abroad shall be deemed free of error if the formalities of either foreign law or Norwegian law are complied with.

Amended by Acts No. 8 of 17 June 1966, No. 127 of 21 December 2007 (in force 1 January 2008).

**Section 48 a.** If a letter of request from a Norwegian court of justice is necessary for enforcement to take place in another state, the request shall be issued by the court that decided the case in the first instance.

Inserted by Act No. 86 of 26 June 1992.

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**Section 49.** In cases other than those dealt with in Section 47, the King may issue the necessary provisions concerning letters of request to foreign authorities.

**Section 50.** The taking of evidence abroad may take place before a Norwegian consular court, if permitted by the foreign state. Evidence so taken shall have equal standing with evidence taken before ordinary Norwegian courts.

The taking of evidence shall follow the rules in force for domestic judicial acts insofar as it is appropriate to follow them. The King may issue detailed rules on the procedure.

Amended by Act No. 27 of 22 May 1981.

**Section 51.** The consular court is presided over by a Norwegian Foreign Service officer authorised by the King.

An attesting witness shall be called to proceedings of the consular court. One or two expert attesting witnesses may be called when special expertise is required.

The King shall issue detailed rules concerning the consular court.

Amended by Acts No. 8 of 17 June 1966, No. 27 of 22 May 1981, No. 2 of 7 January 2005 (in force 1 July 2008 pursuant to Royal Decree No. 226 of 23 February 2007).

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