

N° 2328.

**HONGRIE
ET TCHÉCOSLOVAQUIE**

Convention concernant le règlement des dettes et créances libellées en anciennes couronnes autrichiennes et hongroises, avec protocole de signature. Signés à Budapest, le 26 mai 1928.

**HUNGARY
AND CZECHOSLAVAKIA**

Convention regarding the Settlement of Debts and Claims expressed in former Austrian and Hungarian Crowns, with Protocol of Signature. Signed at Budapest, May 26, 1928.

¹ TRADUCTION. — TRANSLATION.

No. 2328. — CONVENTION ² CONCLUDED BETWEEN THE KINGDOM OF HUNGARY AND THE CZECHOSLOVAK REPUBLIC REGARDING THE SETTLEMENT OF DEBTS AND CLAIMS EXPRESSED IN FORMER AUSTRIAN AND HUNGARIAN CROWNS. SIGNED AT BUDAPEST, MAY 26, 1928.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations and the Resident Minister, Head of the Hungarian Delegation accredited to the League of Nations. The registration of this Convention took place May 19, 1930.

The preliminary work connected with the settlement of debts and claims (Article 231 (*d*), last paragraph, and Article 254 of the Treaty of Trianon) having been accomplished in accordance with the Agreement contained in the Protocol of July 13, 1923,

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, have resolved to conclude a Convention in order to establish the conditions under which the settlement of the said debts and claims shall take place, and have for this purpose appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Minister Plenipotentiary and Head of Section in the Ministry of Finance ;

HIS SERENE HIGHNESS THE REGENT OF HUNGARY :

Count Alexander KHUEN-HÉDERVÁRY, Envoy Extraordinary and Minister Plenipotentiary ;

Who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

SECTION I.

Article 1.

1. Debts and claims at private law, expressed in former Austrian and Hungarian crowns — in so far as they still existed on November 1, 1924, and arise out of a title at private law prior to February 26, 1919, or are based on a contract or any other document prior to February 26, 1919 — shall be settled, subject to any provisions to the contrary in the present Convention and

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Prague, May 8, 1930.

to the exceptions expressly stipulated therein, irrespective of the date of maturity, in accordance with the provisions of Section V, provided the debts and claims exist between natural or juristic persons, companies constituted in accordance with civil law or other similar corporations, one of which had its domicile (seat) on February 26, 1919, in the territory of the Czechoslovak Republic and the other in the territory of the Kingdom of Hungary.

2. All other debts and claims referred to in Article 231 *d*), last paragraph and Article 254 of the Treaty of Trianon which do not come within the provisions of Section V and are not included in the exceptions mentioned in Article 7 of the present Convention shall be subject to the rules of private law of that one of the two States whose law is applicable, in the particular case, in accordance with general principles. In conformity with this provision, the question of the currency and of the rate of exchange must be considered as regulated by Article 231 *d*), last paragraph, of the Treaty of Trianon.

3. Persons, who on February 26, 1919, had their domicile (seat) in the territory of the Czechoslovak Republic shall be referred to in the following articles as "Czechoslovak creditors" or "Czechoslovak debtors", while the terms "Hungarian creditors" and "Hungarian debtors" shall be used to designate persons who on February 26, 1919, had their domicile (seat) in the territory of the Kingdom of Hungary.

Article 2.

1. Debts and claims of persons who on February 26, 1919, had two domiciles — one in the Czechoslovak Republic and the other in the Kingdom of Hungary — shall not come under the provisions of Section V, but shall be considered in respect of Czechoslovak creditors (debtors) as debts between Czechoslovak debtors and creditors, and in respect of Hungarian creditors (debtors) as debts between Hungarian debtors and creditors.

2. Debts and claims of persons of whom either one or the other (debtor or creditor) transferred his domicile, between February 26, 1919, and November 1, 1924, to the territory of a third State, and did not become re-established before November 1, 1924, in the territory of one or other of the Contracting Parties, shall also be excluded from the provisions of Section V.

Article 3.

If the debtor or creditor died before February 26, 1919, and if on that date the succession procedure was still in progress, the deciding domicile shall be that of the deceased person.

Article 4.

As regards firms, partnership companies and juristic persons, the seat of the principal establishment entered in the Commercial Register shall be considered as the domicile.

Article 5.

1. With regard to debts and claims of branches of credit institutes or insurance undertakings, the seat of the branch shall be considered as the domicile without regard to the seat of the principal establishment.

2. Debts and claims based on documents drawn up by the principal establishment of an insurance undertaking may not be considered as debts and claims of the branch unless this appears

incontestably from the document itself or from other written agreements between the parties concerned. (This provision shall be without prejudice to Article 7 (e)).

3. The provisions of the present Convention shall not apply to the relations between the principal establishment and its branches.

Article 6.

Whenever in the present Convention the State territory is mentioned, this expression shall be held to signify the respective territories of the two States as fixed by the Treaties of Versailles, Saint-Germain and Trianon and by Conventions concluded between the States concerned and the measures taken to carry out these Conventions.

SECTION II.

Article 7.

The provisions of the present Convention shall not apply to the following debts and claims :

- (a) Debts and claims of the Contracting States and of State undertakings ;
- (b) Debts and claims of the Royal Hungarian Post Office Savings Bank, which were dealt with in the Convention concluded at Budapest on November 7, 1922 ;
- (c) Debts and claims of divided guardians' funds, which were dealt with in the Convention¹ of March 8, 1924 (Sb.z.a n. No. 229, and Budapesti Közlöny of November 1, 1924), the debts and claims of undivided guardians' funds being dealt with in accordance with the provisions of Section V ;
- (d) Debts and claims (refund of capital, interest and dividends), arising out of securities, such as debentures, shares, co-operative society shares and other similar securities dealt with in the Convention² of July 13, 1923 (Sb.z. a n. No. 225/1924, and the Hungarian Law No. XXII of 1924) ;
- (e) Debts and claims arising out of social or State insurance, the settlement of which is reserved for special conventions already concluded or to be concluded, together with debts and claims arising out of private insurance, the latter being dealt with in the Convention³ of July 13, 1923 (Sb.z.a n. No. 228/1924 and the Hungarian Law No. XXII of 1924). If the eventuality covered by the private insurance occurred before February 26, 1919, the debts and claims resulting therefrom shall be dealt with in accordance with the provisions of the present Convention. Private insurance shall not be held to include debts arising from " investment contracts " by which the insurance enterprise has undertaken, in return for the deposit of a fixed amount, to refund a fixed amount on a date of maturity decided in advance, so that the contract does not involve any risk dependent on the life or death of a certain person ; these debts shall be dealt with under the same conditions as those referred to in Section I, unless they have been transferred by the Convention of July 13, 1923, to a Czechoslovak insurance undertaking ;
- (f) Mortgage claims which were due on February 26, 1919, to Hungarian insurance undertakings and which have been accepted by the Czechoslovak Government as security for Czechoslovak insurance as a whole, it being understood that this provision in no way affects the provisions of Article 24 ;
- (g) Debts and claims of communes, towns and municipalities (comitats), together with debts and claims of hydraulic syndicates, the territorial area of which has been divided by the frontier fixed in the Treaty of Trianon, the settlement of these debts and claims being reserved for a special Convention.

¹ Vol. XXXVI, page 61, of this Series.

² Vol. XXXV, page 271, of this Series.

³ Vol. XXXV, page 253, of this Series.

SECTION III.

Article 8.

1. Debts and claims which were settled without reserve before November 1, 1924, with the consent of the two parties concerned, shall be considered as properly discharged.

2. Debts, the amount of which was deposited with a Court after February 26, 1919, without the consent of the two parties concerned, shall not be considered as discharged but shall remain subject to the present Convention. However, where the deposit was made by decision of a Court to which the case was taken by the creditor, and also where payment was to be made in accordance with the law by the deposit of the amount due, the deposit shall be considered as a discharge of the debt.

3. Debts and claims not coming under the prohibition to pay laid down in the registration agreement contained in the Protocol of July 13, 1923, and which have been settled, shall be considered as discharged.

Article 9.

The fact that a debt or claim which should be settled in accordance with the provisions of Section V has been transferred after February 25, 1919, for any reason whatever (cession, novation, succession, etc.) to a person having his domicile (seat) in any country whatever, shall have no effect either on the amount of the debt or on the method of settlement.

SECTION IV.

Article 10.

1. Periodical payments of all kinds, e.g. life annuities, alimony, etc., shall be discharged by the debtor under the conditions applied to similar liabilities towards creditors established in the State where he has his domicile (seat). This provision shall not apply to annuities from redeemable loans.

2. Conditional debts and claims shall not be subject to the provisions of Section V if the condition on which payment depends is fulfilled after the present Convention enters into force.

SECTION V.

Article 11.

1. Claims due by Hungarian debtors to Czechoslovak creditors shall be transferred by the present Convention to the Hungarian Clearing Office and those due by Czechoslovak debtors to Hungarian creditors to the Czechoslovak Clearing Office. Claims transferred to the Hungarian Office shall be used for paying off Hungarian creditors and those transferred to the Czechoslovak Office, including the payment provided for in the following Article, for paying off Czechoslovak creditors.

2. The debtor must refund his debt to the Office of the State where he had his domicile (seat) on February 26, 1919; the creditor shall be paid by the Office of the State (competent Office) in the territory where he had his domicile (seat) on the same date.

3. The Czechoslovak debtor shall pay one Czechoslovak crown for one former crown. The dividend due to the Czechoslovak creditor shall be determined by Czechoslovak law. Hungarian law shall determine the amounts payable by Hungarian debtors and the dividends receivable by the Hungarian creditors.

4. The amounts to be paid by Hungarian debtors and the dividend to be refunded to Czechoslovak and Hungarian creditors may be different for different categories of debtors and creditors, it being understood that the debtors and creditors of the same State and of the same category shall be treated on an equal footing without regard to their nationality. The amounts payable by Hungarian debtors and the dividend receivable by Hungarian creditors shall in no case exceed 0.10 Czechoslovak crowns for each former crown ; they may, however, be fixed for either category of debtors or creditors at one pengő for 12,500 former crowns.

5. The debt of the debtor shall be liquidated by the payment made to the competent Office and the claim shall be completely settled by the dividend refunded to the creditor by the competent Office. Receipts and cancellation acts shall be drawn up and delivered to the debtor by his competent Office. All other relations between debtor and creditor shall be maintained : the creditor shall be obliged when making payment to the Office to hand over to the debtor the security which he holds and at the same time to discharge any obligations required of him in general or in pursuance of particular agreements.

Article 12

1. The Hungarian Office shall place at the disposal of the Czechoslovak Office 0.07 Czechoslovak crowns for each former crown of the balance resulting from the Hungarian debts actually paid to the Hungarian Office and the claims which the latter actually refunds to the Hungarian creditors. In order to establish this balance no account shall be taken of the claims of undivided Hungarian Guardians' Funds, of the amounts due by these Funds to Czechoslovak minors and persons not *sui juris*, and of Hungarian debts and claims which arose out of loans contracted with a view to acquiring war-loan securities and which were guaranteed by pledging such securities or other securities, the fixed interest on which is paid in Hungarian crowns (12,500 Hungarian crowns being equal to one pengő).

2. The amount to be fixed in accordance with the preceding paragraph of this Article shall be placed at the disposal of the Czechoslovak Office with the Zemská Banka at Prague in Czechoslovak crowns. The two Offices shall agree during the course of the clearing operations as to the date for transferring this amount and as to the instalments which may be paid.

Article 13.

1. The Offices shall transmit to each other all the declarations made to them by their debtors and creditors.

2. The debts and claims to be settled shall be ascertained by means of the declarations deposited with the Offices. The two Offices shall endeavour, as far as possible and by means of friendly settlements, to arrange the differences between the declarations of debtors and creditors.

3. The creditors and debtors shall be obliged to furnish the Office of the debtor with all documents and evidence and with all information ; should they fail to do so they may be fined. The debtors and creditors and any other person may be called as witnesses to make statements on oath. Letters of request, which will be executed immediately, must be addressed to the competent Court through the intermediary of the other Office.

4. With the exception of cases which have been found by joint decision of the two Offices not to come under the provisions of the present Section, the competent Office shall address to each of its debtors an order to pay, a copy of which shall be communicated to the creditor through

his Office. The two parties concerned, together with the Office of the creditor, shall have the right to lodge an objection with the Office of the debtor within 30 days from the date when the order to pay was delivered to them. The objections shall be communicated to the party concerned through the intermediary of his Office. Any reservations or pleas in bar submitted by a debtor or creditor who has declared his debt or claim and notified to the competent Office after May 7, 1928, may only be taken into consideration with the consent of the Office of the debtor.

5. Disputes concerning debts regarding which objection has been made shall be settled by the Arbitral Commission of the competent Office of the debtor. The Arbitral Commissions shall be composed of two members, one of whom shall be delegated by the Hungarian Office and the other by the Czechoslovak Office.

6. Disputes which cannot be settled by a unanimous decision of the competent Arbitral Commission shall be submitted to a Court of Arbitration to be composed of a neutral and permanent chairman and two arbitrators, one nominated by the Hungarian Office and the other by the Czechoslovak Office. The chairman shall be chosen by the arbitrators of the two Offices and if they cannot come to an agreement, a request shall be made to the President of the Swiss Federal Court to nominate the chairman. The Court of Arbitration shall hold its meetings at the seat of the competent Office of the debtor.

7. The Arbitral Commission and the Court of Arbitration shall determine in each case the costs of the procedure which are to be defrayed by the parties (debtor or creditor).

8. The decisions of the Arbitral Commissions and of the Court of Arbitration shall be enforceable in both States. The orders to pay in regard to which no objection has been lodged shall also be enforceable, but in order to execute them in the other State, they must be furnished with the execution clause by the Arbitral Commission of the Office of the debtor. In the procedure of execution the rules for the collection of taxes shall be followed *mutatis mutandis*.

9. The dividend due to the creditor may only be refunded to him when the claim has been established either by a summons to pay which, in the absence of an objection, has become final and unappealable, or by decision of the Arbitral Commission or of the Court of Arbitration.

10. The Offices shall lend each other every possible assistance in all matters direct.

11. Notifications to be made in the other State shall be effected through the intermediary of the Office of that State.

12. The courts and authorities of the two States shall lend each other any assistance which may be necessary in carrying out the present Convention.

13. The Offices shall have the right to collect a procedure fee from their creditors and debtors.

14. As soon as one of the two Offices shall cease to function, it shall come to an agreement with the other as to the form in which this fact shall be published and as to the measures which appear necessary.

Article 14.

1. Debts and claims shall be considered as being due not later than the moment of the entry into force of the present Convention, regardless of any agreements to the contrary between the interested parties.

2. Each of the two Offices shall have the right to grant to its debtors postponement of payment.

Article 15.

The setting-off of debts and claims may only take place in the course of the procedure provided for in this Section if the debt and also the claim existed on February 26, 1919, between the same parties and if they have been or will be declared in accordance with Article 17.

Article 16.

1. Interest on debts and claims including accrued interest up to March 1, 1919, shall be calculated at the rate of 4 % per annum (simple interest) from that date, even if, by agreement between the parties concerned, no interest has been due or a different rate has been stipulated.

2. In respect of claims arising from savings bank passbooks and redeemable loans (mortgage loans, etc.) interest shall be paid as agreed between the parties concerned and, in respect of claims against the Postal Cheque Office of Prague, the interest provided in the Statutes of that Office.

3. As regards debts and claims not bearing interest, which were due before the coming into force of the present Convention, interest shall be due from the date of maturity fixed by the parties concerned. Should the maturity be later than the date of the coming into force of the present Convention, the said debts and claims shall only be valid for the amount which — plus interest at 4 % for the period between the coming into force of the Convention and the date of maturity — corresponds to the original amount of the debt or claim, the above-mentioned interest at 4 % being calculated in this case as from the date of the entry into force.

Article 17.

1. Declarations of claims made after May 7, 1928, may not be considered as deposited in good time unless the two Offices are agreed that the delay is justified. Otherwise, the claim shall fall to the State in which the creditor should have made his declaration.

2. Debts and claims not subject to compulsory registration but coming under the provisions of Section V may be declared up to the end of the third month following the coming into force of the present Convention.

Article 18.

1. The Contracting Parties shall not make any claim against each other with regard to costs arising out of the execution of the present Convention.

2. The costs arising from the functions of the Chairman of the Court of Arbitration shall be borne equally by the two States.

Article 19.

1. Demands and requests, together with the documents attached thereto, which have been deposited in the course of the procedure provided for in the present Section, together with receipts for payment, transactions and documents drawn up in execution of the present Convention between the Offices, or between one of the Offices and third persons, and finally, entries in the public registers made at the instance of the Offices, shall be exempt from duties and taxes.

2. Documents conditionally exempt from duties and taxes shall not lose this privilege by being used in carrying out the procedure prescribed in this Section.

SECTION VI.

Article 20.

As regards mortgage claims transferred to the Czechoslovak Republic by the liquidators of the Austro-Hungarian Bank and guaranteed by immovable property situated in the territory of the Czechoslovak Republic, the debtors who, on February 26, 1919, had their domicile (seat) in Hungary must pay to the Czechoslovak Office, through the intermediary of the Hungarian Office, 0.10 Czechoslovak crowns for one former crown.

Article 21.

Loans granted on securities (secured loans) which were transferred to the Contracting Parties during the liquidation of the Austro-Hungarian Bank, shall be dealt with in accordance with the provisions of Section V, in so far as the debtor had his domicile (seat) on February 26, 1919, in the territory of the other State.

SECTION VII.

Article 22.

1. As regards debts and claims subject to the provisions of Section V, any payment or acceptance of payment, or any other act relating to the settlement of the said debts and claims, is prohibited. Transactions infringing this prohibition shall be null and void.

2. The said debts and claims may not be the subject of proceedings in the Courts, any suit procedure, attachment or execution being inadmissible.

3. Any suit and request for execution shall be rejected immediately or on demand; actions which are suspended shall be terminated by rejection of the suit on account of the inadmissibility of judicial procedure; any interrupted execution procedure shall be stopped. The Courts shall conform to the principle of equity in their decisions relating to the costs of proceedings.

Article 23.

The period between November 1st, 1918, and the date on which it is decided whether the debt or claim is subject or not to the provisions of Section V, shall not be included in the periods counting for prescription, nor in the periods laid down for the bringing of actions, nor in any periods the non-observance of which involves legal prejudice under the law. The said periods shall not in any case expire before the end of the year following the said decision.

SECTION VIII.

Article 24.

1. Claims in former crowns transferred, in accordance with the Convention concluded or to be concluded in execution of the Treaty of Trianon, to the Czechoslovak Republic or to a person nominated by that Republic shall be settled by the Czechoslovak debtor, unless otherwise provided in the said Convention, at the rate of one Czechoslovak crown for one former crown. This provision shall in no way affect the conditions under which the amount collected in respect of these claims shall be used, in accordance with the said Conventions.

2. The provisions of the preceding paragraph shall also apply to the mortgage claims referred to in Article 7 (*f*).

The present Convention shall be ratified and the ratifications exchanged at Prague as soon as possible. It shall come into force fifteen days after the exchange of the ratifications.

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Budapest, May 26, 1928.

(L. S.) Dr Bohumil VLASÁK.

(L. S.) GRÓF KHUEN HÉDERVÁRY SÁNDOR.

PROTOCOL OF SIGNATURE.

On proceeding to sign the Convention of to-day's date, regarding the settlement of debts and claims expressed in former Austrian and Hungarian crowns, the Contracting Parties made the following declarations :

(1) As regards servants, industrial labourers and workers, clerks and apprentices, students and scholars, who, on February 26, 1919, were living in the territory of one of the two States, and who, before November 1, 1924, established themselves in their country of origin, the said persons shall be considered as having had their domicile on February 26, 1919, in their country of origin.

Public officials and persons retired from the public service, who, before November 1, 1924, transferred their domicile from the territory of one of the two States to the territory of the other, shall be treated as if they had had their domicile in that State on February 26, 1919.

(2) The two Offices shall do their best to settle amicably any disputes which may arise in carrying out the Convention by reason of agreements and conventions concluded with other States.

(3) On the part of Czechoslovakia it was declared that Article 7 (*a*) cannot in any way affect the settlement of the debts and claims of the States and of State undertakings.

The present Protocol shall be ratified at the same time as the Convention of to-day's date and shall have the same force as the said Convention.

In faith whereof the Plenipotentiaries have signed this Protocol and have thereto affixed their seals.

Done at Budapest, May 26, 1928.

Dr Bohumil VLASÁK.

Gróf KHUEN HÉDERVÁRY SÁNDOR.