

N° 1272.

**ROUMANIE
ET TCHÉCOSLOVAQUIE**

Convention relative à la protection et à l'assistance judiciaire réciproques, en matière de droit civil et commercial, ainsi que dans les affaires non contentieuses, et protocole additionnel. Signés à Bucarest, le 7 mai 1925.

**ROUMANIA
AND CZECHOSLOVAKIA**

Convention concerning Reciprocal Judicial Protection and Legal Assistance in regard to Civil and Commercial Law and non-Litigious Affairs, with Additional Protocol. Signed at Bucharest, May 7, 1925.

¹ TRADUCTION. — TRANSLATION.

No. 1272. — CONVENTION ² BETWEEN CZECHOSLOVAKIA AND ROUMANIA CONCERNING RECIPROCAL JUDICIAL PROTECTION AND LEGAL ASSISTANCE IN REGARD TO CIVIL AND COMMERCIAL LAW AND NON-LITIGIOUS AFFAIRS. SIGNED AT BUCHAREST, MAY 7, 1925.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Convention took place August 7, 1926.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS MAJESTY THE KING OF ROUMANIA, desirous of settling the juridical relations between the two countries with regard to reciprocal judicial assistance in matters of civil and commercial law, non-litigious affairs, and questions of inheritance and guardianship (curatorship),

Have decided to conclude a Convention for this purpose and have appointed as Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Zdeněk FIERLINGER, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic in Roumania; and

Dr. Emile SPIRA, Head of Section in the Ministry of Justice, Prague ;

HIS MAJESTY THE KING OF ROUMANIA :

M. I. G. DUCA, Minister, Secretary of State in the Department of Foreign Affairs ;

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

CHAPTER I.

GENERAL PROVISIONS.

Article 1.

EQUALITY OF TREATMENT.

1. The nationals of either Contracting Party shall enjoy in the territory of the other Party the same rights as the nationals of that Party with respect to the legal and judicial protection of their persons and property.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Prague, July 9, 1926.

2. They shall have free access to the Courts, including the Courts of Guardianship, of the other State, under the same conditions and in the same manner as nationals of that State.

The general provisions in force in each of the Contracting States regarding the language to be employed before the Courts shall not be modified by anything contained in the present Convention.

CHAPTER II.

EXEMPTION FROM SECURITIES AND DEPOSITS.

Article 2.

1. No security or deposit of any description whatever, even for legal costs, may be required by the competent Courts or authorities from the nationals of the other country residing therein, either on the ground that they are foreigners or that they possess no domicile or residence in the country in question.

2. The nationals of either of the Contracting Parties living outside the territory of the other Party shall enjoy the same right, but they shall be bound, on commencing proceedings, to give the name of a person residing in that territory who shall have the right to accept all legal documents on their behalf.

Article 3.

1. If persons exempted from giving security or making a legal deposit in virtue of Article 2 of the present Convention or by the laws in force in the State in which the action is brought are ordered by one of the Courts of the Contracting Parties to pay the costs of the action, such judgment shall, upon requisition being made through the diplomatic channel, be executed free of charge, according to the laws in force, by the competent authorities of the other Contracting State. The judgment ordering payment of costs shall be enforceable provided the competent authorities of the State making the application certify thereon that it is *res judicata* and provided it is drawn up or accompanied by a translation in accordance with the provisions of Article 9 of the present Convention.

The parties need not be heard, but the unsuccessful party may oppose the judgment when such right is recognised by the laws of the State in which the judgment is to be executed.

2. The same provisions shall also apply to judicial decisions subsequently fixing the costs of the action at a higher sum.

CHAPTER III.

FREE LEGAL AID.

Article 4.

1. Free legal aid shall be granted to the nationals of either of the Contracting Parties in the territory of the other Party according to the regulations which are in force for its own nationals.

2. If free legal aid is granted by the Courts or authorities of either of the Contracting Parties to one of the parties to the suit, that party shall be given the same benefit with respect to the various proceedings and judicial documents relating to the same matter before the Courts of the other Contracting State.

Article 5.

In all cases the certificate of inadequate means shall be issued or endorsed by the authorities of the State in which the applicant's habitual residence is situated or, failing such residence, by the authorities of the State in which he is residing for the time being. Should the applicant not be resident in the territory of either of the Contracting Parties, and should the authorities of his actual place of residence not issue to him or not endorse the said certificate, it will be sufficient if a certificate is issued or endorsed by the diplomatic representative or consular agent of the country to which the applicant belongs.

If the applicant is not resident in the State in which he is claiming free legal aid, the certificate of inadequate means shall be legalised free of charge by the diplomatic or consular agent of the State in which he desires to make use of the said certificate.

Article 6.

If a party to a case has his domicile or habitual residence in the territory of one of the Contracting States and desires to obtain free legal aid in a suit which must be brought before the Courts of the other State, he may submit his request for a certificate of inadequate means to the competent Courts (authorities) of the district in which he has his domicile or his habitual residence.

The competent authorities of the other Contracting State shall, in accordance with the certificate of inadequate means obtained in this way, grant free legal aid in the action brought before them.

Article 7.

1. The authority competent to issue or endorse the certificate of inadequate means may make enquiries of the authorities of the other Contracting Party with regard to the financial position of the applicant.

2. The authority appointed to deal with the application for free legal aid shall be entitled, within the limits of its competence, to verify the accuracy of the certificate and the information submitted.

CHAPTER IV.

SERVICE OF DOCUMENTS AND EXECUTION OF LETTERS ROGATORY.

Article 8.

1. The Contracting Parties undertake to give each other legal assistance in questions of civil law, including the settlement of questions of inheritance, guardianship (curatorship), and of commercial law.

Legal assistance shall include :

- (a) The service of summonses or other documents ;
- (b) The execution of letters rogatory.

2. Requests for service of documents and letters rogatory shall be transmitted direct by the Ministry of Justice of the State making the requests to the Ministry of Justice of the State applied to.

3. If the authority applied to is not the competent authority in the particular case, the Ministry of Justice shall, on being informed of the matter, notify the Ministry of Justice of the other State of the competent authority to which the application has been transmitted.

Article 9.

1. Requests for service of documents and letters rogatory shall be drafted in the official language of the State making the request and be accompanied by a translation in the language of the State applied to. The translation shall be made or certified correct by a sworn interpreter or official of the State making the request.

2. The authority applied to may, at the request of the authority submitting the application and at the expense of the latter, cause a translation to be made.

3. Requests for service of documents and letters rogatory need not be legalised, but the seal of the authority which transmits them should be affixed.

Article 10.

CONTENTS OF REQUESTS.

1. The request shall indicate the object and give, if necessary, a brief account of the matter ; it shall state the names of the parties to the suit, their occupation, their habitual residence and business address if any, or their place of abode and their capacity in the suit.

2. Requests for service of documents shall give the address of the recipient, the nature of the document to be transmitted, and also, if necessary, the form in which delivery is to be made.

Article 11.

EXECUTION OF REQUESTS.

1. Requests for service of documents and letters rogatory shall be made in the manner laid down by the laws of the State applied to.

2. Nevertheless, at the express desire of the authority making the request, a special form may be employed, provided it is not contrary to the laws of the State applied to.

3. The document certifying execution of the request and the papers attached thereto need not be translated into the language of the State making the request.

Article 12.

1. The judicial authority to which a request for legal assistance is submitted shall, in complying with the request, employ the same means of compulsion as it would employ in giving effect to a similar request on the part of the authorities of its own State or a request for legal assistance made by an interested party. These means of compulsion need not necessarily be employed when it is a question of the appearance of the parties in the case, unless this is required by law.

2. The authority making the request shall, if it so desire, be notified of the date and place at which the action applied for shall be taken, in order that the interested parties may be able to be present at the proceedings.

Article 13.

1. The execution of the letter rogatory may only be refused if its authenticity is not established, or if the measure to be taken is not within the competence of the judicial authorities in the State applied to, or if the State in which such action is to be taken considers it such as to affect its sovereignty or safety.

2. In such a case, the authority applied to shall immediately inform the Ministry of Justice of its State of the grounds on which the execution of the letter rogatory has been refused. This Ministry shall in its turn inform the Ministry of Justice of the State making the request and shall return the request to it.

Article 14.

Documents to be served on private persons need not be accompanied by a translation in the official language of the State applied to unless the form laid down by the laws of that State be expressly demanded for such service, failing which, the service of the document shall be effected by delivery to the addressee, if he is prepared to accept it.

Article 15.

1. The service of the documents mentioned in Article 14 may only be refused if the State in whose territory such service is to be made considers it such as to affect its sovereignty or safety.

2. In such a case, the provisions of Article 13 shall also apply.

Article 16.

1. Proof of service shall be furnished either by a dated and duly certified receipt from the addressee, or by a certificate from the authority of the State applied to, setting forth the fact, the manner, the date and the place of such service.

2. If the document to be served has been forwarded in duplicate, the receipt or certificate shall appear on one of the two copies, or be attached thereto.

Article 17.

Either of the Contracting Parties may serve legal documents on its nationals residing in the territory of the other Party direct through its diplomatic or consular agents, but it may not have recourse to threats or compulsion.

Article 18.

COSTS OF LEGAL ASSISTANCE.

1. No charge may be made for the service of documents or the execution of letters rogatory, and no claim may be submitted for repayment of expenses of any kind whatever. Nevertheless, sums paid to witnesses and experts by the State applied to, and also any costs resulting from a request for the use of a special form of procedure, shall be repaid without delay by the State making the request, whether or not payment is obtained from the parties concerned.

The foregoing provision shall also apply to the cases mentioned in Article 4, paragraph 2.

2. Legal assistance may not be refused on the ground that the authority making the request has not deposited a sufficient sum to cover the expenses which are to be repaid in accordance with paragraph 1, unless the State applied to can demand an advance of this nature from its own nationals.

3. Postal charges shall be borne by the authority making the request.

4. The authority applied to shall indicate, when notifying the authority making the request of the execution of the latter, the amount of the expenses incurred which are repayable in accordance with paragraph 1 of the present Article. The amount of these expenses shall be sent by the authority making the request to the authority applied to through the two Ministries of Justice.

CHAPTER V.

MARRIAGES.

Article 19.

1. The Courts of the country of which the husband and wife are nationals shall alone have the right to give decisions on the validity of marriages and to issue a decree of divorce or of judicial separation. Should the husband and wife be of different nationalities, the Courts of the Contracting State in which they had their last joint domicile shall have exclusive competence in these matters.

2. Should the parties have changed their nationality, no circumstance which arose before such change may be adduced as a ground for divorce or judicial separation unless it was also recognised as such under the laws to which the parties were subject before their change of nationality.

3. Final decisions of the authorities mentioned in paragraph 1 shall be recognised as valid in the territory of the other Contracting Party.

Article 20.

1. A husband or wife residing in the territory of the other Contracting State may apply to the competent authorities of that State to take provisional measures, *e. g.*, to decide as to claims for alimony and the granting of a separate residence, or to make an order for the restitution of conjugal rights, even if the authorities of the party's own State are the competent authorities in regard to an application for divorce or judicial separation.

2. Such provisional measures shall remain in force until modified by the competent Court of the State of which the husband and wife are nationals.

CHAPTER VI.

QUESTIONS CONCERNING LEGITIMACY OF CHILDREN, ACKNOWLEDGMENT OF NATURAL CHILDREN, DECISIONS CONCERNING LEGITIMATION AND CONFIRMATION OF CONTRACTS OF ADOPTION.

Article 21.

1. The Courts or authorities of the Contracting State of which the defendant in the action is a national shall be competent in cases concerning the legitimacy of children and the acknowledgment of paternity.

2. Final decisions of such Courts or authorities shall be recognised as valid in the territory of the other Contracting Party.

Article 22.

1. The competent Court of the Contracting State of which the Party exercising the right of legitimation or adoption is a national shall be competent to decide questions concerning the legitimation of natural children or to confirm a contract of adoption.

2. If, however, the laws of the State, of which the person who has been legitimised or adopted is a national, provide in regard to consent and necessary authorisation regulations other than those contained in the laws of the State the authorities of which are competent in conformity with paragraph 1, then the regulations laid down by the laws of the State of the person who has been legitimised or adopted must also be complied with.

3. Final decisions of the authorities mentioned in paragraph 1 shall be recognised as valid in the territory of the other Contracting Party.

CHAPTER VII.

GUARDIANSHIP OR CURATORSHIP.

Article 23.

1. It shall be the duty of the authorities of the two Contracting Parties to assure the guardianship (curatorship) of the person and entire property of their nationals.

2. If it should be necessary to arrange for guardianship (curatorship) in the case of a national of the other Contracting State residing or possessing property therein, the authorities shall at once notify the court or authority competent in matters of guardianship (curatorship), but they may only adopt urgent measures for the protection of person and property.

3. The Court or competent authority of the State of which the person under guardianship (curatorship) is a national may rescind these measures. If, however, the interests of the person concerned render such action necessary, it may transfer, after hearing the ward and his legal representative, the entire guardianship (curatorship), or certain functions connected therewith affecting either the person or the property, to the authorities of the other Contracting Party, if the latter agree, in accordance with the regulations in force in that other State.

4. These authorities shall then apply the laws of their own country. Their decisions, immediately they become final, shall be recognised as valid in the territory of the other State. The said authorities, nevertheless, may not decide questions of personal status.

CHAPTER VIII.

INHERITANCE.

Article 24.

RIGHT TO DISPOSE OF AND ACQUIRE PROPERTY BY INHERITANCE.

1. The nationals of either Contracting Party may make a disposition *mortis causa* of all the property they possess in the territory of the other State by will, joint testament of husband and wife, codicil, contract of inheritance, gift in case of death or in any other manner in the same way as nationals of the country.

The will or the deed of revocation shall be drawn up in accordance with the law of the country in which it is made.

2. Both Contracting Parties undertake to treat the nationals of the other Party in the same way as their own nationals as regards the transfer of movable and immovable property in the event of death.

The following shall be considered legal titles for the acquisition of property in accordance with the present provisions : will, joint testament of husband and wife, codicil, contract of inheritance, legal inheritance, right to the portion secured by law, and unclaimed estate in favour of the State.

3. The above provisions shall in no way affect the laws in force in the territory of the Contracting Party in which the property is situated, limiting the right of free disposal, in case of death, in respect of the whole or part of the property, or of certain articles, for special reasons connected with the person of the testator, or for reasons of public policy.

They shall not, moreover, affect the special legal provisions, (regarding agrarian reform, trusts, etc.), which may be in force in the territory of the Contracting Parties.

Article 25.

COMPETENT AUTHORITIES IN CASES OF INHERITANCE.

(a) Immovable Estate.

1. The Courts or authorities of the Contracting Party in the territory on which the immovable property is situated shall alone be competent to liquidate immovable estate and to decide on all disputes relating thereto.

2. The question of what is to be regarded as immovable property shall be decided in accordance with the laws of the State in which such property is situated.

Article 26.

(b) Movable Estate.

1. The Courts or authorities of the Contracting State of which the deceased was a national at the time of his death shall be competent to liquidate movable estate. It shall be the duty of such authorities to decide disputes relating to the liquidation of the deceased's movable property.

2. The Contracting Parties undertake to deliver up to each other, for the purposes indicated in paragraph 1, the movable property belonging to the estate of a national of the other Party, when such estate is situated within their territory.

3. The question of what is to be regarded as movable property shall be decided in accordance with the laws of the country in the territory of which such property is situated.

Article 27.

(c) Unclaimed Estate.

The Courts or authorities of the Contracting Party in which the property is situated shall be competent to liquidate unclaimed estate, movable and immovable, and also to decide what is to be regarded as unclaimed estate. Unclaimed estate shall become the property of that Party.

MEASURES TO BE TAKEN BEFORE DELIVERY OF MOVABLE ESTATE.

*Article 28.**(a) Safeguarding the Estate.*

1. The Courts or competent authorities of the Contracting Party in the territory of which the movable estate is situated, shall :

(a) Make out the death certificate if the national of the other Contracting Party died in its territory. The Court or authority within whose jurisdiction death took place shall in every case advise the consular authority of the other Party directly, or, in default thereof, its diplomatic representative, at the same time forwarding to him a legalised copy of the death certificate, or if necessary, an extract from the register of deaths ;

(b) Take the necessary measures, in case of emergency for safeguarding the estate and ensuring its proper administration, with a view to preventing loss or other injury.

2. It shall be the duty of the Courts or authorities in question to draw up an inventory of the whole of the estate and, if circumstances so require, to affix seals thereto or deposit the property in a safe place, or appoint a trustworthy person as administrator with a view to the management of the property.

3. The measures mentioned in paragraphs 1 and 2 shall be taken by the Court or authority in accordance with the provisions in force on this subject in the country concerned.

4. Should there be a consular authority of the other Contracting Party at the place at which the movable estate is situated, the measures mentioned in paragraph 1 (b) can only be taken if the said consular authority has been informed of the fact at least twenty-four hours beforehand, unless there should be any danger in delay. The consular authority may, within the limits of his powers, attend while the measures are being taken by the Court or authority of the place at which the movable estate is situated. Such consular authority may, in particular, request that these measures should be taken in a special manner if this is not at variance with the laws of the State to which the Court or authority belongs.

In all other cases, the Consular authority shall be notified immediately of all that has been done to ensure the administration of the estate. These measures may, at his request, be modified or cancelled, unless prejudice may thereby result to the nationals of the State in which the estate is situated.

*Article 29.**(b) Protection of heirs, legatees and national creditors.*

1. Should nationals of the Contracting State in which the estate is situated or persons residing in that country be interested in the liquidation as heirs or legatees, the Court or authority of the place in which the estate is situated may, at the request of such heirs or legatees, retain either the whole of the estate or a sufficient portion until the competent Court or authority of the State of which the deceased was a national, shall have finally adjudicated upon their rights as heirs or legatees.

2. Similar measures may be taken, at the request of creditors who are nationals of the Contracting State, in the territory of which the movable estate is situated, or who reside therein, provided they have submitted their claims to the competent Court within the period laid down in the following Article.

The Courts of the State in which the movable estate is situated shall alone adjudicate upon the claims of these creditors.

Article 30.

With a view to the measures provided for in Article 29, the Court shall fix a period of from one to three months within which the persons mentioned above must submit their claims to the Court or competent authority.

The notice relating thereto shall be published in the two States in the gazette reserved for official publications and a certified true copy shall be sent immediately to the Court or authority liquidating the estate and to the consular agent, or, in default thereof, to the diplomatic representative of the other State.

If their claims have not been submitted within the said period, delivery of the movable estate cannot be refused.

DELIVERY OF THE ESTATE.

Article 31.

1. The movable estate shall be delivered to the nearest consular authority of the State to which the deceased belonged.

2. The provisions of the present Convention shall not in any way affect the provisions relating to the prohibition to export certain articles.

LIQUIDATION OF MOVABLE ESTATE BY THE COURTS OR AUTHORITIES
OF THE OTHER CONTRACTING PARTY.*Article 32.*

If the movable estate is situated in the territory of the other Contracting Party, the heirs residing within that territory may, notwithstanding the provisions of Article 26, request that the estate should be liquidated by the Court or authority of that State. In that case the Court shall publish a notice fixing a period as in Article 30, and calling upon all the heirs and legatees to submit their claims, failing which liquidation shall be effected between those entitled to the estate who shall have submitted their claims. This notice shall be published in both States in the gazette reserved for official communications and a certified true copy shall be forwarded without delay to the Court or authority of the State of which the deceased was a national, and also to his local consular authority, or, in default thereof, to some other representative of his State. If no one should apply in response to this notice, or if those who have submitted their claims should consent to the estate being liquidated by the said Court, the liquidation shall be carried out in accordance with the laws of the State in which the estate is situated. If, however, some of the heirs or legatees who have applied should ask, or if the Court or authority of the deceased's country whose duty it is to liquidate the estate should insist, that the estate be handed over to the Court or competent authority of the deceased's State, this request shall be complied with.

Article 33.

Costs due to measures taken in accordance with Articles 28 and 31 shall be borne by the State to which the estate is handed over.

Article 34.

1. The above provisions relating to the handing-over of movable estate to the Courts or competent authorities of the deceased's country shall not be affected by any subsequent agreements

which may be entered into between the Finance Departments of the two Contracting Parties with a view to preventing double taxation of movable estate.

2. Until the conclusion of the agreement mentioned above, both Contracting Parties reserve the right to collect the charges and other public taxes provided for by the laws in force in their respective countries, before handing over the movable estate to the authorities of the other Party.

CHAPTER IX.

DECLARATION OF PRESUMPTION OF DEATH.

Article 35.

The declaration of presumption of death shall be made by the Courts of the State of which the person concerned was a national before his disappearance. The final decisions of such Courts shall be recognised as valid in the territory of the other Contracting State.

Article 36.

In cases of urgency, the Courts of either Contracting Party may, in accordance with the laws of their country, declare that a national of the other State is presumed to be dead for all the purposes which such a declaration may serve in their territory.

CHAPTER X.

LEGALISATION OF DOCUMENTS AND ADMISSIBILITY AS EVIDENCE.

Article 37.

1. Documents drawn up, issued or legalised by a Court (guardianship authority) or by a central administration, or by any other equivalent administrative authority shall not, if the official seal has been affixed thereto, require any other legalisation for submission to the authorities of the other Contracting Party.

2. Documents drawn up or legalised before a notary public must be legalised by a Court for use as indicated in paragraph 1.

3. Authenticated copies signed by the clerk to a Court shall also be considered as legal documents provided such signature is sufficient under the laws of the country.

4. The list of central administrations referred to in paragraph 1 shall be annexed to the present Convention. The Contracting Parties shall inform each other of any changes which may subsequently be made therein.

Article 38.

The admissibility as evidence of public documents drawn up in the territory of one of the Contracting Parties, and that of commercial books kept in that territory, shall be determined in proceedings before the Courts of the other Contracting Party according to the laws of the State in which they were drawn up or kept. Nevertheless, they shall not be given any wider measure of recognition than that accorded to them under the laws of the State before whose Courts the suit is pending.

CHAPTER XI.

LEGAL INFORMATION AND ATTESTATION OF LEGAL PROVISIONS.

Article 39.

1. The Ministries of Justice of the two Contracting Parties shall, if requested to do so, supply information concerning the law in force in the territory of their States, and, if necessary, concerning the rulings of their Courts in regard to specific questions.

2. The request must state exactly the legal provisions concerning which information is desired or the text which is to be attested, and the questions of law in regard to which the rulings of the Courts are sought.

CHAPTER XII.

Article 40.

BANKRUPTCY PROCEDURE.

In bankruptcy and composition proceedings begun in the territory of one of the Contracting States, creditors who are nationals of the other State shall be treated in the same way as creditors who are nationals of the State in question.

Article 41.

1. If bankruptcy proceedings have been begun against the property of a national of the other Contracting State, the competent Court of the national's country, if that Court is known, and the consular authority, or in default thereof, another representative, must be notified immediately.

These authorities in their turn shall, if they have been officially informed, notify the Court dealing with the bankruptcy case, as soon as possible, whether the bankrupt possesses movable or immovable property in the territory of their State.

2. Should there be reason to suppose that there are creditors interested residing in the territory of the other State, a copy of the public notice concerning the opening of bankruptcy proceedings, in addition to the notice mentioned above, must be sent to the Court or, if necessary, to the consular authority or other representative, for insertion in the gazettes intended for that purpose.

3. If a Court of one of the Contracting Parties has opened bankruptcy proceedings, and if the bankrupt though possessing movable property in the territory of the other Contracting State, does not have his residence (place of business) there, the authorities of that State shall, at the request of the said Court, take the necessary measures to receive custody of the estate and draw up an inventory.

As from the date on which the competent authority of the other Contracting Party is notified of such a request, it shall no longer be possible to acquire in its territory any right of property, pledge or lien in respect of the bankrupt's movable property.

The Courts of the Contracting State in which the property is situated shall decide what articles are to be excluded or separated from the movable assets of the estate in bankruptcy. The remainder of the movable property shall be delivered to the competent Courts of the other Contracting Party.

Article 42.

The declaration of bankruptcy made by the competent authority of either of the Contracting Parties, shall not affect the bankrupt's immovable property situated in the territory of the other Contracting Party.

The present provision shall not be affected by any notifications concerning the existence of immovable property, as provided for in Article 41, paragraph 1.

CHAPTER XIII.

Article 43.

RECIPROCAL EXECUTION OF ENFORCEABLE TITLES.

Both Contracting Parties undertake to authorise the execution and enforcement in their territory of the titles mentioned below, which emanate from the authorities of the other Contracting Party and which, in accordance with the laws in force, constitute enforceable titles.

Article 44.

The following shall be regarded as enforceable titles :

(a) Judgments, payment orders, warrants and other decisions of the civil Courts of every kind, including commercial courts, if they are authenticated and if, under the laws of the State making the request, they are no longer subject to appeal with suspensory effect.

The same shall apply to judgments in criminal cases and to awards of damages to injured parties and costs of proceedings.

(b) Arrangements entered into before the courts mentioned above, if they are authenticated and provided with an attestation of the Court to the effect that they are enforceable.

(c) Awards and decisions by arbitrators or by courts of arbitration, if, in accordance with the law or a written agreement between the parties concluded in legal form, the arbitrator or the court of arbitration is authorised to give a decision.

Such awards, decisions or arrangements must be provided with an attestation by the Court of first instance within the jurisdiction of which the arbitrator or court of arbitration gave the award or decision, or within the jurisdiction of which the arrangement was entered into, certifying that they are correct and stating that no further appeal with suspensory effect can be admitted.

Article 45.

Unless otherwise provided in the present Convention, the authorising of the execution and the execution itself shall be governed by the regulations in force in the State in which they are to be effected.

Article 46.

1. The request for authorising execution and for the execution itself shall be made by the applicant to the Court which issued the document. In the case of the execution of a document

issued by a court of arbitration or by an arbitrator, the request shall be made to the Court of first instance mentioned in Article 44 (c).

These Courts shall immediately transmit the request for authorisation and for execution to the competent Court through the Ministry of Justice, after having attached the attestations provided for in Article 44, together with the other documents in support.

2. The interested party shall, however, be at liberty to submit its request for authorisation and execution direct to the competent Court of the other Contracting Party.

3. The Court competent to authorise the execution shall determine, on the basis of the documents received, whether all the conditions necessary for authorisation have been fulfilled. This investigation, which must be completed at latest within fifteen days as from the date on which the Court receives the documents, shall be restricted to the following points :

(a) Whether the Court which decided the matter can be regarded as competent under the laws of the State in which the enforceable title was established. In that case it will be sufficient if, in accordance with the provisions concerning judicial competence in force in the State to which a request for authorisation and execution has been made, no Court of that State had exclusive competence to decide the matter in question ;

(b) Whether it is a case of an executory document in accordance with Article 44 ;

(c) Whether the defendant has been duly summoned, should the law so require, to take part in the proceedings, and especially whether the application or request, or the award or decision constituting the enforceable title, has been duly served on him. If judgment was given in default, the Court must, should the defendant so request, ascertain if the latter was not prevented by an irregularity in the proceedings from taking part in the case or from being properly represented.

Before giving judgment the Court may, as regards these points, hear the party, or the representative of the party, against whom execution is requested ;

(d) Whether the purpose of the execution is not to obtain a legal document which is prohibited under the laws in force in the State in which execution is to take place, or to secure recognition of a legal position or to give effect to a claim which is inconsistent with the sovereignty of the State applied to or contrary to morality or which, under the laws of the State applied to, cannot form the subject of a judicial action, or cannot be executed.

4. Neither the Court which authorises the execution nor that which carries it out, shall be entitled to examine the merits of the case.

Article 47.

The Court competent to authorise the execution shall, in conformity with the laws of the country, allow provisional measures (measures of custody) to be taken in order to safeguard the rights arising out of the enforceable title with respect to the person against whom execution is requested, and this shall be done not only within its own area of jurisdiction but also within the areas of the other Courts of the same country in which his property is situated.

These measures may only be revoked if the person in question provides sufficient surety to meet all the claims arising out of the enforceable title.

Article 48.

EXECUTION FOR THE PURPOSE OF MAINTAINING THE " STATUS QUO ".

Even before the orders of the Courts referred to in Article 44 have become final or the period laid down for their completion has expired, the Court competent to authorise execution may, upon an application being made in the manner laid down, allow measures to be taken in accordance with the provisions in force in the State applied to for the purpose of maintaining the *status quo*.

Article 49.

PROVISIONAL MEASURES (FOR MAINTAINING THE "STATUS QUO").

Provisional measures (for maintaining the *status quo*) shall be granted before the action is begun or during the action at the request of the party whose interests are liable to be affected, even if a Court of the other State is competent to decide the matter in question.

CHAPTER XIV.

Article 50.

FINAL PROVISIONS.

The present Convention shall be ratified and the ratifications shall be exchanged as soon as possible at Prague.

The Convention shall enter into force one month after the exchange of the ratifications and shall remain in force until the expiration of six months from the date on which either of the Contracting Parties denounces it.

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

Done in duplicate at Bucharest, May 7, 1925.

(L. S.) Z. FIERLINGER.

(L. S.) I. G. DUCA.

(L. S.) DR. E. SPIRA.

ADDITIONAL PROTOCOL.

The Plenipotentiaries of the Czechoslovak Republic and of the Kingdom of Roumania, being about to sign the Convention concerning legal assistance in civil affairs, declare their agreement on the following questions :

(1) *As regards Article 8* : In order to acquaint each other with the judicial authorities in their respective countries, the Contracting Parties shall communicate to each other a list of the Courts of Appeal and all the Courts of first instance established within their territory. This list shall, as far as possible, be accompanied by a map showing the Courts of the various authorities.

(2) *As regards Article 9* : The Contracting Parties shall conclude an agreement concerning the text of the forms to be drawn up in the official language of the two States, which are to be employed in serving documents.

(3) *As regards Article 24, paragraph 2* : The principle of equality of treatment in connection with the transfer of property, laid down in Article 24, paragraph 2, shall not affect any restrictions contained in the laws of either of the Contracting States concerning

the acquisition or possession of rural immovable property. The other Contracting Party shall, however, be entitled, in virtue of the principle of reciprocity, to adopt the same restrictive measures with regard to the nationals of that State.

(4) This Protocol shall form an integral part of the present Convention.

In faith whereof, the Plenipotentiaries have signed this additional Protocol.

Done in duplicate at Bucharest, May 7, 1925.

Z. FIERLINGER.
Dr. E. SPIRA.

I. G. DUCA.