

N° 2587.

HONGRIE
ET YOUGOSLAVIE

Convention relative à certaines questions de procédure civile et de droit privé, avec protocole de signature. Signés à Belgrade, le 11 novembre 1929.

HUNGARY
AND YUGOSLAVIA

Convention regarding certain Questions of Civil Procedure and Private Law, with Protocol of Signature. Signed at Belgrade, November 11, 1929.

¹ TRADUCTION. — TRANSLATION.

No. 2587. — CONVENTION ² BETWEEN THE KINGDOM OF HUNGARY AND THE KINGDOM OF YUGOSLAVIA REGARDING CERTAIN QUESTIONS OF CIVIL PROCEDURE AND PRIVATE LAW. SIGNED AT BELGRADE, NOVEMBER 11, 1929.

French official text communicated by the Permanent Delegate of the Kingdom of Yugoslavia 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 January 7, 1931.

HIS MAJESTY THE KING OF YUGOSLAVIA and HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, being equally desirous of settling relations between the Kingdom of Yugoslavia and the Kingdom of Hungary concerning certain questions of civil procedure and private law, have resolved, with this object, to conclude a Convention and have appointed as their respective Plenipotentiaries :

HIS MAJESTY THE KING OF YUGOSLAVIA :

Dr. Voislav MARINKOVITCH, His Minister for Foreign Affairs,

HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY :

Baron Paul FORSTER, His Envoy Extraordinary and Minister Plenipotentiary at Belgrade,

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

CHAPTER I.

ACCESS TO THE COURTS.

Article I.

Nationals of each of the Contracting Parties shall be authorised to appear as plaintiffs or defendants before the Courts of the other Contracting Party, even against nationals of the last-named Party. The Courts of the Contracting Parties shall, in such cases, accord to them the same treatment as is accorded to nationals of the country.

The present Convention shall in no way affect the general provisions concerning languages which shall be that applicable to nationals.

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 Budapest, October 7, 1930.

CHAPTER II.

ASSISTANCE IN JUDICIAL MATTERS AND MATTERS OF GUARDIANSHIP.

*Article 2.**Relations between authorities.*

The two Contracting Parties shall, on request, assist one another in judicial and extra-judicial matters, both civil and commercial, including matters of guardianship and curatorship.

Should the authority applied to be without jurisdiction, it shall transmit the letters of request through the official channel to the competent authority of its State, and shall at the same time inform the applicant authority.

Applications for service of documents and also letters of request shall be transmitted through the Ministry of Justice of the applicant Party to the Ministry of Justice of the Party applied to, excepting applications or communications from or to the Hungarian guardianship authorities ; which shall be transmitted, in the case of Hungary, through the Royal Hungarian Ministry of the Interior.

*Article 3.**Translation and legislation of applications for service of documents and letters of request.*

Applications for service of documents and letters of request need not be legalised, but shall require the seal of the applicant authority. Such application or letters of request, and the annexes thereto, shall be accompanied, in the case of the Kingdom of Yugoslavia, by a Serb, French or German translation, and, in the case of Hungary, by a Hungarian, French or German translation, if the said documents are not drawn up in one of those languages or in the language of the applicant authority. The translations shall either be official translations or shall be made or legalised by a sworn translator of the applicant Party and shall bear his signature and official seal ; further legalisation shall not be necessary.

Documents in proof of service or stating the cause of non-service, replies to letters of request and documents drawn up in execution of letters of request, together with their annexes, shall not be accompanied by a translation save at the request of the applicant Party and on payment of the costs of translation.

*Article 4.**Contents of applications for service and letters of request.*

An application for service shall state the authority issuing the document transmitted, the name and description of the parties, the address of the recipient, and the nature of the document.

Letters of request shall state the object of the application and shall, if necessary, give a brief summary of the case and the names, occupation, domicile, seat or residence of the parties.

*Article 5.**Form of execution and treatment of letters of request.*

Applications for service and letters of request shall be dealt with in conformity with the laws of the Party applied to.

Nevertheless, at the request of the applicant authority, they may be executed in any special form that is not contrary to the laws of the Party applied to.

The competent authority shall employ, in the execution of letters of request, the means of compulsion applicable in the case of letters of request from the authorities of its own State or the case of applications submitted for such purpose by an interested party.

Should the applicant authority so request, it shall be informed of the date and place of the execution of the measure applied for, in order that the parties concerned may be present.

Article 6.

Documents to be served.

If the document is to be served in the form prescribed by the law of the Party applied to for the service of such documents, it shall be drawn up in the official language of that Party or shall be accompanied by a translation in that language.

Otherwise, the authority applied to may simply effect service by handing over the document to the addressee if the latter accepts it voluntarily.

Article 7.

Refusal of applications for service or letters of request.

Service may only be refused if the Contracting Party in whose territory it is to be effected deems it prejudicial to its sovereign rights or its security.

Execution of letters of request may likewise be refused, if the measure applied for is not within the competence of the Courts or of the guardianship authorities.

The Party applied to shall inform the other Party without delay of the refusal to effect service or to execute letters of request, duly stating the reasons for such refusal.

Article 8.

Proof of service.

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

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

Article 9.

Costs of assistance.

No charge may be made for the service of documents or the execution of letters of request and no claim may be submitted for repayment of expenses of any kind whatsoever. This shall not apply, however, to sums paid to witnesses and experts by the Party applied to or to any costs resulting from a request for the use of a special form of procedure.

The authority may not refuse assistance on the grounds that no sufficient advance has been made to cover costs repayable in virtue of paragraph 1 of the present Article, unless such an advance may in respect of the same official acts be demanded from nationals of the country.

Postal charges shall be borne by the authority despatching the document.

CHAPTER III.

EXEMPTION FROM DEPOSIT AND SECURITY FOR COSTS.

(*Cautio judicatum solvi*).

Article 10.

No security for costs (*cautio judicatum solvi*) or deposit of any kind may be required, on the ground of foreign nationality or lack of domicile or residence in the country, from nationals of one of the Contracting Parties having their domicile in the territory of the other, and appearing as plaintiffs or interveners in the Courts of the latter.

Article 11.

Where the applicant or intervener is exempt under Article 10 or by the *lex fori* from giving security (*cautio judicatum solvi*) or deposit, a judgment as to costs, delivered by a Court of one of the Contracting Parties and possessing the force of *res judicata*, shall be enforced free of charge by the competent authority of the other Party, without first hearing the parties in accordance with the law of the country, on application being made through the Ministries of Justice.

The fact that the judgment has acquired the force of *res judicata* shall be certified by the competent authority of the applicant Party.

An application for enforcement shall be accompanied by the operative portion of the aforesaid judgment; this application, its annex and the certificate provided for in the previous paragraph shall be subject to the provisions of Article 3.

The same rules shall apply to judicial decisions given subsequently as to costs.

CHAPTER IV.

FREE LEGAL ASSISTANCE.

Article 12.

Nationals of one of the Contracting Parties shall enjoy in the territory of the other Party the benefit of free legal assistance, in conformity with the provisions therein in force for the nationals of the latter.

The party to which poor persons' rights have been accorded shall enjoy the benefit of such rights throughout proceedings in the same action before the judicial authorities of the other Contracting Party. The provisions of Article 9 shall apply to the costs of such proceedings.

Article 13.

The poor persons' certificate shall be issued by the authority of the applicant's habitual place of residence or, failing a habitual residence, by the authority of his place of residence at the time.

If the applicant does not reside in the territory of the Contracting Parties, the certificate of the competent diplomatic or consular representative of his State shall suffice.

Article 14.

The authority competent to issue a poor persons' certificate may apply for information concerning the financial position of the applicant to the authorities of the other Contracting Party.

The authority responsible for deciding applications for free legal assistance shall, within the limits of its competence, be entitled to verify the certificates or information that may be furnished to it.

CHAPTER V.

PROVISIONS CONCERNING THE HAGUE CONVENTION OF JULY 17, 1905, RELATING TO CIVIL PROCEDURE.

Article 15.

In the event of the accession of the Kingdom of Yugoslavia to the Hague Convention of July 17, 1905, relating to Civil Procedure¹, the Contracting Parties agree that that Convention shall, on entry into force as regards the Kingdom of Yugoslavia, replace the provisions of Articles 1 to 14 of the present Convention, with the exception of such of the latter provisions as are more favourable to communication between the authorities or to the interests of private parties.

CHAPTER VI.

MOVABLE ESTATE.

*Article 16.**Succession Rights of the Contracting Parties in respect of Movable Property.*

Rights of succession in respect of movable property shall be governed by the national law of the deceased.

The law of the Party in whose territory the estate is situated shall determine what constitute movable estate.

*Article 17.**Handing over of Movable Estate.*

Subject to the exceptions contained in Articles 18 and 21 of the present Convention, each of the Contracting Parties undertakes to hand over to the other Party the movable estate of deceased nationals of the other Party, with a view to the administration of the estate and the settlement of disputes relating thereto by the Court (authority) of the State of the deceased.

*Article 18.**Preliminary Measures and Safeguarding of Movable Property.*

The Court (authority) of the Contracting Party in whose territory the movable estate is situated shall be bound :

(1) To draw up the protocol of death of a national of the other Party who has died in its territory ;

¹ *British and Foreign State Papers*, Vol. 99, page 990.

(2) To take the necessary measures for the safeguarding and proper administration of the estate, with a view to preventing loss or other injury.

(3) To draw up a regular inventory of the whole estate and, if circumstances so require, to place the whole under seal or deposit it in safe keeping, or appoint a trustworthy person as administrator of the estate.

The measures mentioned in paragraphs 1 and 2 of the present Article shall be taken by the competent Court (authority) in conformity with the provisions in force in the State concerned. Nevertheless, on application by the other Party, they may be taken in any special manner that is not contrary to the *lex fori*.

If the heirs or legatees are nationals of the Contracting Party in whose territory the estate is situated, or if they are domiciled therein, the competent Court (authority) shall be authorised, on application, to retain the whole of the estate or a sufficient portion thereof, until the competent Court of the other Party has finally adjudicated upon the claims of such heirs or legatees.

The measures mentioned in the foregoing paragraph shall also be taken at the request of creditors who are nationals of the Contracting Party in whose territory the movable estate is situated or who are domiciled therein, provided that such creditors have duly substantiated their claims. The Courts of the Party in whose territory the movable estate is situated shall have exclusive jurisdiction over such claims.

Article 19.

Time-limit for submission of applications.

For the purpose of the measures mentioned in paragraphs 3 and 4 of the foregoing Article, a time-limit not exceeding five months shall be fixed, during which applications of the above-mentioned persons may be submitted to the Court (authority). If no such application has been submitted within that period, the transfer of the movable estate may not be refused.

The decision fixing the time-limit in question shall be published in the territory of the Party in which the movable estate is situated, in conformity with the laws of that country, and a certified copy of the decision shall be delivered without delay to the other Party.

Article 20.

Notification to and intervention of agent of the other Party.

In the event of the death of a national of one of the Contracting Parties in the territory of the other, the competent authority shall immediately notify the diplomatic or consular agent of the State of the deceased and shall forward, as soon as possible, the death certificate and a certified copy of the protocol of death.

When an agency exists in the commune in which the movable estate is situated, the measures referred to in sub-paragraph (2) of Article 18 may not be taken unless the diplomatic or consular authority has been informed in proper term, in order that he may be able to be present.

In other cases, the agent shall be informed without delay of any steps taken to safeguard and administer the estate; such measures may, at his request, be modified or suspended, provided that no prejudice is thereby involved to nationals of the Party on whose territory the estate is situated.

Article 21.

Transfer of proceedings.

Should the heirs, nationals of the Party in whose territory the movable estate is situated, request, before the expiry of the time-limit laid down in Article 19, that the estate be administered

by the courts of that Party, the competent Court (authority) of the country of the deceased shall — provided that the other heirs do not object — transfer proceedings to the competent Court (authority) of the Party in whose territory the movable estate is situated.

Article 22.

Execution of transfer.

On the completion of the measures laid down in the foregoing Articles, the movable estate shall be transferred to the diplomatic or consular agent of the State of the deceased for handing over to the competent Court (authority) of that State.

The property thus transferred shall none the less be subject to the rules in force concerning prohibition of export. Nevertheless, the two Contracting Parties undertake to treat with fairness and liberality applications for export submitted by persons entitled.

CHAPTER VII.

LEGALISATION AND ADMISSIBILITY OF DOCUMENTS.

Article 23.

Documents drawn up or legalised by Courts or Ministries of the Contracting Parties and bearing the official seal shall not require legalisation for submission to the Courts or authorities of the other Party.

Documents drawn up by notaries public, process-servers and other judicial officers shall, when used as provided in the foregoing paragraph, be legalised by the Court of the State in which the notary public or officer resides.

Article 24.

Official documents and commercial books drawn up or kept in the territory of one of the Contracting Parties shall, when used before the Courts or authorities of the other Party, rank equally as evidence with those drawn up or kept in the territory of the last-named Party.

CHAPTER VIII.

DECLARATION OF DEATH.

Article 25.

The declaration of death in respect of any person shall fall within the exclusive competence of the Courts (authorities) of the Contracting Party of which such person was a national at the time of his decease.

Decisions in regard to such matters which have acquired the force of *res judicata* shall be recognised, without formality, in the territory of the other Party.

CHAPTER IX.

INFORMATION OR EVIDENCE ON POINTS OF LAW.

Article 26.

The Ministries of Justice of the Contracting Parties shall supply each other with information as to the law in force in the territory of their respective States.

An application for the purpose shall state exactly the point of law on which information is requested or the text to be certified correct.

CHAPTER X.

DISPUTES CONCERNING LEGITIMACY.

Article 27.

Disputes concerning the legitimacy of a child shall fall within the competence of the Courts of the Contracting Party of which the father is a national.

Decisions in regard to such matters which have acquired the force of *res judicata* shall be recognised without formality in the territory of the other Party.

CHAPTER XI.

DIVORCE.

Article 28.

The Courts of the Contracting Party of which the husband and wife are nationals at the time of application shall alone have jurisdiction as to nullity, divorce or judicial separation; should the husband and wife not be of the same nationality at the time of such application, the courts of the Party of which they last were nationals at the same time shall be competent.

Should the husband and wife have changed their nationality, no fact which has occurred before such change may be adduced as grounds for divorce or judicial separation unless such fact would have constituted grounds for divorce or separation by the law that last was common to husband and wife.

Decisions in regard to such matters which have acquired the force of *res judicata* shall be recognised, without formality, in the territory of the other Party.

CHAPTER XII.

ADOPTION AND LEGITIMATION.

Article 29.

Confirmation of adoption or legitimation shall fall within the competence of the authorities of the Contracting Party of which the person effecting adoption or legitimation is a national and not the authorities of the Party of which the person to be adopted or legitimised is a national.

Should the laws of the Party of which the person to be adopted is a national lay down regulations in regard to consent and the authorisations necessary other than those required by the law of the adopting person, the provisions of the national law of the person to be adopted shall be complied with.

Decisions in regard to such matters shall be recognised, without formality, in the territory of the other Contracting Party.

CHAPTER XIII.

EXCHANGE OF CERTIFICATES OF BIRTHS, MARRIAGES AND DEATHS.

Article 30.

Official communication.

The Contracting Parties undertake to deliver to one another of their own proper motion duly legalised birth, marriage and death certificates and acts of legitimation of children born out of wedlock, relating to the persons stated in such documents to be nationals of the other Party.

Copies of birth, marriage, death and legitimation certificates shall contain all the essential information entered in the registers and shall, as far as possible, mention the domicile or place of birth of the persons to whom they refer.

These documents shall be communicated annually through diplomatic channels.

Article 31.

Delivery of Certificates.

Application for and delivery of Registrar's certificates required by authorities or offices shall be effected without delay through the two Ministries of the Interior.

Applications received direct from individuals residing in the territory of the other Contracting Party shall receive the same treatment as applications from nationals.

Article 32.

Making and cost of copies.

Copies shall be made, without translation, in the manner customary in each State.

Copies required by the authorities or by individuals shall, if a literal copy is desired, be made in the same language and in the same letters (Latin or Cyrillic) as the original.

The legalisation of extracts shall be effected in the language of the authority from which they originate. They shall not require subsequent legalisation.

Copies for official communications and copies applied for by authorities or offices shall be made and delivered free of all cost or charge.

Copies for private individuals shall be made free of charge only in the case of a poor person duly so certified by the competent authority of first instance of his place of domicile.

CHAPTER XIV.

BANKRUPTCY.

*Article 33.**Notification of bankruptcy proceedings.*

On the opening of bankruptcy proceedings against a national of one of the Contracting Parties, the Court which has opened such proceedings shall immediately notify the Party of which the bankrupt is a national.

If, on the opening of bankruptcy proceedings against a person of no matter what nationality, it appears probable that creditors are domiciled in the territory of the other Contracting Party, the opening of the bankruptcy proceedings shall be advertised, by the Court of trial, through the official Receiver, in the duly appointed newspapers of the other Party and in accordance with the laws of that Party.

*Article 34.**Handing over of movable bankrupt estate.*

When bankruptcy proceedings are opened in the territories of one of the Contracting Parties against a person of no matter what nationality and the bankrupt possesses movable property in the territory of the other Party, without, however, being domiciled there, arrangements shall be made, if the Court of trial so demand, for the safeguarding, inventorying and delivery to the said Court of the above-mentioned movable property.

From the date of the presentation of such a request to the competent Court, no right of lien, ownership, or pledge or other real right can be acquired over the said property. It is agreed that delivery of the movable property shall not take place if the above-mentioned rights have been acquired before that date.

*Article 35.**Procedure concerning property subject to a lien.*

Measures in respect of movable property which, under the terms of the foregoing Article, does not form the subject of transfer, and, also, measures in respect of the immovable property of a bankrupt shall fall within the competence of the Courts of the Contracting Party in whose territory the property is situated.

Should such property have been the subject of a forced sale, any sum obtained over and above the amount required to satisfy the creditors enforcing the sale shall be handed over to the Court of trial, in conformity with the provisions of the foregoing Article.

*Article 36.**Equality of treatment for creditors.*

Nationals of each of the two Contracting Parties shall, in their capacity as creditors, enjoy the same rights as nationals of the other Party in proceedings relating to bankruptcy and composition.

CHAPTER XV.

COPYRIGHT.

Article 37.

Each of the Contracting Parties agrees to apply to the literary and artistic works of the other Party, on terms of reciprocity, the provisions of the revised Berne Convention¹ of November 13, 1908, for the protection of literary and artistic works, and also the provisions of the Additional Protocol² of that date.

CHAPTER XVI.

FINAL PROVISIONS.

Article 38.

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

Article 39.

The present Convention shall come into force three months after the exchange of ratifications and shall remain in force for a period of six years as from that date.

Unless one of the Contracting Parties shall have given notice, six months before the expiry of the said period, of its intention to terminate the Convention, the latter shall remain in force until the expiry of a period of six months from the date of its denunciation by one or other of the Contracting Parties.

In faith whereof the respective Plenipotentiaries have affixed their signatures and seals.

Done at Belgrade, in duplicate, November 11, one thousand nine hundred and twenty-nine.

(L. S.) Dr. V. MARINKOVITCH, *m. p.*

(L. S.) FORSTER, *m. p.*

PROTOCOL OF SIGNATURE.

When proceeding to sign the Convention of to-day's date relating to certain questions of civil procedure and private law, the undersigned Plenipotentiaries have agreed upon the following provisions :

(1) In order to facilitate communications between the Courts of either Party, the two Contracting Parties undertake to communicate to one another, after the entry into force of the present Convention, a list of their Courts of first instance, and likewise any subsequent changes.

¹ Vol. I, page 217 ; Vol. III, page 259 ; Vol. XI, page 328 ; Vol. XXIV, page 138 ; Vol. XLV, page 95 ; Vol. LIX, page 342 ; Vol. LXIII, page 375 ; Vol. LXIX, page 64 ; Vol. LXXXVIII, page 434 ; Vol. LXXXIII, page 372 ; Vol. C, page 150 ; and Vol. CVII, page 456, of this Series.

² Vol. I, page 243 ; Vol. III, page 259 ; Vol. XI, page 328 ; Vol. XXIV, page 138 ; Vol. XLV, page 95 ; Vol. LIX, page 342 ; Vol. LXIII, page 375 ; Vol. LXIX, page 69 ; Vol. LXXXIII, page 372 ; Vol. XCVI, page 180 ; Vol. C, page 153 ; and Vol. CVII, page 459, of this Series.

(2) With reference to the more favourable provisions mentioned in Article 15, the two Contracting Parties have decided in advance that the following provisions shall thus be regarded :

(a) Paragraph 1 of Article 2 concerning assistance in matters of guardianship and curatorship.

(b) Paragraph 3 of Article 2 concerning the employment of the Ministries of Justice as intermediaries.

(c) Article 3 concerning the language for translations.

(3) The Royal Yugoslav Government declares and the Royal Hungarian Government takes note that, for the purpose of applying paragraph 1 of Article 23 of the present Convention, the following Yugoslav authorities shall be deemed equivalent to Ministries : the Council of State (*Državni Savet*) and the Supreme Court of Control (*Glavna Kontrola*).

The present Protocol shall possess the same force and period of validity as the above-mentioned Convention, concluded this day.

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

Done at Belgrade in duplicate, November 11, one thousand nine hundred and twenty-nine.

(L. S.) Dr. V. MARINKOVITCH, *m. p.*

(L. S.) FORSTER, *m. p.*