

N° 2793.

**ESPAGNE
ET TCHÉCOSLOVAQUIE**

Convention relative à la reconnaissance et à l'exécution de décisions judiciaires. Signée à Madrid, le 26 novembre 1927.

**SPAIN
AND CZECHOSLOVAKIA**

Convention regarding the Recognition and Enforcement of Judicial Decisions. Signed at Madrid, November 26, 1927.

¹ TRADUCTION. — TRANSLATION.

No. 2793. — CONVENTION² BETWEEN THE KINGDOM OF SPAIN AND THE CZECHOSLOVAK REPUBLIC REGARDING THE RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS. SIGNED AT MADRID, NOVEMBER 26, 1927.

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 29, 1931.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and HIS MAJESTY THE KING OF SPAIN have thought it desirable to conclude a Convention concerning the recognition and enforcement of judicial decisions and have appointed for this purpose as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

- M. Emil SPIRA, Doctor of Laws, Head of Department at the Ministry of Justice, and
- M. Karel HALFAR, Doctor of Laws, Head of the International Treaties Department at the Ministry of Foreign Affairs ;

HIS MAJESTY THE KING OF SPAIN :

- M. Vicente GONZÁLES-ARNAO Y AMAR DE LA TORRE, Resident Minister, Head of the Section of Litigious Affairs in His Ministry of State, Knight of the Order of Charles III, Commander of the Order of Isabella the Catholic,
- M. Juan GÓMEZ MONTEJO, Head of the First-class Bureaux of the Technical Corps of Legal Advisers to His Ministry of Justice,

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

Article I.

The following shall be regarded as judicial decisions within the meaning of the Convention : decisions pronounced in civil and commercial matters, whether of a contentious nature or not, by the ordinary tribunals, special tribunals, arbitral tribunals or guardianship (curatorship) authorities.

Decisions pronounced in a criminal case, upon the demand of the civil party, and decisions involving a declaration of bankruptcy or ratifying a composition between the parties, shall not be regarded as judicial decisions in civil and commercial matters within the meaning of the Convention.

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 14, 1930.

Article 2.

The authority of judicial decisions within the meaning of Article 1, pronounced in one of the Contracting States, shall be recognised in the other State, subject to the following conditions :

(1) That, in the case in question, the rules of international legal competence recognised by the law of the State in which the decision is sought to be relied upon shall not exclude the jurisdiction of the other State ;

(2) That the recognition of the decision shall not be contrary to the public policy or to the principles of the public law of the country in which the decision is sought to be relied upon ;

(3) That, under the law of the State in which the decision has been pronounced, such decision shall have acquired the force of *res judicata* ;

(4) That, in the case of judgment by default, the defaulting party against whom the decision is sought to be relied upon shall have been duly summoned in accordance with the law of the country in which the decision has been pronounced, and that he shall have received the summons in good time.

The examination by the authorities of the State in which the decision is sought to be relied upon shall relate only to the conditions specified under Nos 1 to 4. It shall be the duty of these authorities on their own initiative to ascertain whether the said conditions are fulfilled. This examination shall be completed within two months at latest from the date on which the competent authority received the documents.

Article 3.

Judicial decisions pronounced in one of the Contracting States shall be enforced in the other State if they satisfy the conditions enumerated in Article 2, Nos 1 to 4 and if they are enforceable in the State in which they have been pronounced.

The examination by the authorities of the State in which enforcement is sought shall only deal with the requirements mentioned in the preceding paragraph. It shall be the duty of these authorities on their own initiative to ascertain whether the said requirements are satisfied. This examination shall be terminated within two months at latest from the date on which the competent authority received the documents.

Article 4.

The party relying upon the decision or claiming its enforcement must produce :

(1) A copy of the decision satisfying the conditions necessary to its authenticity ;

(2) A certificate to the effect that the decision has acquired the force of *res judicata* and, if necessary, that it has become enforceable ; this certificate shall be issued by the authority which gave the decision ;

(3) In case of judgment by default, an authenticated copy of the writ or summons on which proceedings were begun, and a certificate indicating the method and date of notifying the defaulting party ;

(4) A translation of the above-mentioned document certified correct in accordance with the regulations of either State ; in Czechoslovakia, the translations shall be submitted in the Czechoslovak language and in Spain, in the Spanish language.

Article 5.

Arbitral awards pronounced in one of the contracting States and having acquired therein the same force as judicial decisions, shall be recognised and enforced in the other State if they satisfy the provisions of the preceding Articles, in so far as these are applicable.

The same shall apply in the case of compromises concluded before the judicial authorities and compromises concluded before arbitrators or arbitral tribunals.

Certificates to the effect that the awards, decisions or compromises referred to in this Article have acquired the force of *res judicata* and have become enforceable shall be issued in each of the two contracting States by the authority which would be competent therein to authorise enforcement on the basis of the said enforceable documents.

Article 6.

Enforcement shall be applied for by the interested party direct to the tribunal within whose jurisdiction the enforcement must take place.

The procedure for enforcement shall be governed by the law of the State applied to. This shall also apply to the measures provided in Articles 9 to 11.

Article 7.

The enforcement of the decisions concerning costs and expenses referred to in Article 18, paragraphs 1 and 2 of the Hague Convention¹ of July 17, 1905, on Civil Procedure and given in one of the two States shall be governed by Article 6 of the Agreement² concluded between the two contracting States on reciprocal judicial assistance in civil and commercial matters.

Article 8.

The provisions of the present Convention shall apply irrespective of the nationality of the parties.

Article 9.

The tribunal competent to authorise enforcement shall, at the request of the party, allow the taking of precautionary measures, in conformity with its laws, to safeguard the rights arising out of the enforceable document as against the debtor. This tribunal may rescind these measures later, in conformity with its laws.

Article 10.

Even before the decisions specified in Articles 1 and 5 have acquired the force of *res judicata*, or before the period laid down in the decision for fulfilment has expired, the tribunal competent to authorise enforcement may, upon request being made, allow conservatory measures to be taken in accordance with the provisions in force in the State applied to.

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

² See page 287, of this Series.

Article 11.

Provisional measures shall be accorded before or during the proceedings, on the request of the party whose interests are threatened, even if a tribunal of the other State is competent to decide in the matter in question.

Article 12.

If any doubts arise on questions connected with the application of the present Convention, the Ministry of Justice at Prague and the Ministry of Reprieve and Justice at Madrid shall communicate to each other direct, upon request being made, the necessary legal information.

Article 13.

The present Convention shall be ratified and the ratifications shall be exchanged at Prague. This Convention shall come into force one month after the exchange of ratifications and shall remain in operation for one year after denunciation, which may be effected at any time.

In faith whereof the Plenipotentiaries have signed the present Convention in two copies.

Done at Madrid, November 26, 1927.

(L. S.) Dr. Emil SPIRA.

(L. S.) Vicente GONZÁLEZ-ARNAO.

(L. S.) Dr. Karel HALFAR.

(L. S.) Juan GÓMEZ-MONTEJO.