

N° 2802.

HONGRIE ET POLOGNE

Convention en vue d'éviter la double
imposition des successions. Signée
à Varsovie, le 12 mai 1928.

HUNGARY AND POLAND

Convention for the Prevention of
Double Taxation in the matter
of Succession Duties. Signed at
Warsaw, May 12, 1928.

¹ TRADUCTION. — TRANSLATION.

No. 2802. — CONVENTION² BETWEEN THE KINGDOM OF HUNGARY AND THE REPUBLIC OF POLAND FOR THE PREVENTION OF DOUBLE TAXATION IN THE MATTER OF SUCCESSION DUTIES, SIGNED AT WARSAW, MAY 12, 1928.

French official text communicated by the Polish Delegate 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 September 5, 1931.

HIS SERENE HIGHNESS THE REGENT OF HUNGARY and HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of preventing double taxation in the matter of successions duties, have agreed to conclude a Convention with this object and for this purpose have appointed their Plenipotentiaries :

THE PRESIDENT OF THE REPUBLIC OF POLAND :

Dr. Tadeusz JACKOWSKI, Director of the Political and Economic Department in the Ministry of Foreign Affairs, and M. August FRANTZ, Inspector to the Ministry of Finance ;

THE REGENT OF HUNGARY :

H. E. Alexandre BELITSKA, Envoy Extraordinary and Minister Plenipotentiary of Hungary at Warsaw, and M. Alexandre KNEPPO, Counsellor to the Minister of Finance at Budapest ;

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

Article 1.

Immovable property, including appurtenances, left by nationals of one of the two Contracting States shall be liable to succession duty only in the Contracting State in which the property is situated.

The question whether a specific item of property forming part of the estate is to be regarded as immovable property or not shall be settled in accordance with the laws of the Contracting State in which such property is situated. The question as to what constitutes " appurtenances " shall be settled by the laws of the Contracting State in which the immovable property is situated. Rights to which the provisions of civil law relating to immovable property are applicable, and also the right of usufruct of such property, and rights which are secured by or constitute a charge upon the said property, shall be regarded as immovable property. Such rights should be regarded

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 ratification took place at Budapest, July 22, 1931.

as existing in that one of the two Contracting States in which the immovable property is situated to which those rights related.

All undertakings or share in undertakings, all property intended for a branch of subsidiary establishment of an undertaking, and any share in the branch or subsidiary establishment, in so far as they do not involve a right of participation connected with the holding of stock or mining shares, shall be liable for succession duty in that one of the two Contracting States in which the undertaking or branch establishment is situated.

Article 2.

With regard to the constituent parts of the estate left by a national of one of the two Contracting States and to which the provisions of Article 1 do not apply, the following principles shall be observed :

(a) The said constituent parts shall, in principle, be liable to succession duties in that one of the two Contracting States of which the deceased was a national at the time of his death.

(b) If, however, the deceased, at the time of his death, had his domicile in the other Contracting State, the constituent part of the estate situated therein shall be liable to succession duty in that State, except in the case specified in paragraphs (c) and (d).

(c) If the deceased, at the time of his death, has a domicile in both Contracting States, the said constituent parts of the estate shall be liable to succession duty only in that one of the two Contracting States of which the deceased was a national.

(d) Should the person acquiring the inherited property be a national of one of the two Contracting States at the time of the death of the person leaving the property, the property inherited by him shall be liable to the succession duty in force in the Contracting State of which he was a national at the time in question ; nevertheless, this provision shall not apply when the person acquiring the property has his domicile in the other Contracting State.

For the purposes of the present Convention, the term *domicile* shall mean the place in which a person has an abode, provided that, in view of the circumstances, it may be assumed that he intends to retain it as a permanent dwelling, or the place where he resides, if there is reason to assume in view of the circumstances, that it is not his intention to reside there only temporarily.

Article 3.

The question as to the place at which the constituent parts of an estate, referred to in Article 2, are situated shall be decided in accordance with the following principles :

(a) In the case of debts, the decisive factor shall be the place of domicile of the deceased ;

(b) In the case of scrip and commercial bills (such as bills of exchange, promissory notes, etc.), the place where they were deposited at the time of the death ;

(c) In the case of rights for which special registers are kept by the authorities for the purpose of entering the names of the persons entitled, the decisive factor shall be the place at which such registers are kept.

Article 4.

Bequests which do not relate to a specific object shall be treated as if they were to be paid out of the property referred to in Article 2, in so far as such property is adequate to pay them. Such

bequests shall be divided in proportion to the value of the constituent parts of the above-mentioned property situated in each of the two Contracting States. Any balance of such bequests which cannot be paid in the above-mentioned manner shall be regarded as to be made good out of the estate as specified in Article 1, and in that case such balance shall be divided in proportion to the value of the parts of the estate, as specified in Article 1, situated in each of the two Contracting States.

Article 5.

Debts and burdens chargeable to or secured on the property specified in Article 1 shall be deducted from the value of such property. Where the deceased was also personally liable for such debts, any balance thereof which cannot be met as above shall be deducted from the property specified in Article 2. The provisions of Article 4 concerning the proportionate division of bequests between property situated in each of the two Contracting States shall be applied in a similar manner to the above-mentioned debts and burdens.

The provisions of Article 4 shall apply in a similar manner in the case of other debts and burdens.

Article 6.

The present Convention shall not affect the right of either of the Contracting States to impose, in accordance with their respective laws, succession duties on those parts of the estate which are not liable to taxes of this kind in the other Contracting State.

Article 7.

If, under the provisions of the present Convention, the estate in each of the two Contracting States is only liable in part to succession duty, then, in such cases, the amount of such duties leviable in one of the Contracting States shall be exclusively assessed on the value of the property liable to the duties in that State.

Article 8.

For the purposes of the present Convention, the term " succession duty " shall mean all taxes levied on the transfer of property on death in virtue of laws which are, or may hereafter be, in force in each of the Contracting States.

Article 9.

The Contracting States agree to assist each other in the assessment of the tax covered by the present Convention and in the collection of the tax and the communication of the necessary notifications. The Governments of the two Contracting States may conclude a special agreement with regard to the procedure relating thereto.

Article 10.

If, in individual cases, doubts arise as to the application of the provisions of the present Convention, the difficulties shall be settled in agreement by the Finance Ministers of the two Contracting States.

Article II.

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Budapest as soon as possible. It shall come into force on the thirtieth day after the date of the exchange of the instruments of ratification, and shall apply in all cases in which the person leaving the property dies after the Convention has come into force.

The present Convention shall remain in force until denounced by either of the Contracting States not less than six months before the end of a calendar year.

If denounced within the period laid down, the present Convention shall to be cease operative on the expiry of the same calendar year for all cases in which the person having the property dies after the close of the said year.

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

Done in duplicate at Warsaw, May 12, 1928.

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

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

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

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