

N° 2663.

FRANCE
ET TCHÉCOSLOVAQUIE

Convention relative à la protection
et à l'assistance judiciaire en ma-
tière civile et commerciale. Signée
à Paris, le 7 mai 1928.

FRANCE
AND CZECHOSLOVAKIA

Convention concerning Judicial Pro-
tection and Legal Assistance in
Civil and Commercial Matters.
Signed at Paris, May 7, 1928.

¹ TRADUCTION. — TRANSLATION.

No. 2663. --- CONVENTION BETWEEN FRANCE AND CZECHOSLOVAKIA CONCERNING JUDICIAL PROTECTION AND LEGAL ASSISTANCE IN CIVIL AND COMMERCIAL MATTERS. SIGNED AT PARIS, MAY 7, 1928.

THE PRESIDENT OF THE FRENCH REPUBLIC and THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC, with a view to supplementing the provisions of the Declaration of May 24, 1922, concerning the Transmission of Judicial and Extra-judicial Documents and Letters of Request in Civil and Commercial Matters, and of the Convention of October 7, 1922, concerning Judicial Protection and Legal Assistance, have resolved to conclude a Convention for this purpose and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. BRIAND, Member of the Chamber of Deputies, Minister for Foreign Affairs ;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Stefan OSUSKY, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic in Paris ;

M. Emil SPIRA, Head of Department in the Ministry of Justice ;

M. Karel HALFAR, Head of the Treaty Department in the Ministry of Foreign Affairs ;

Who, having communicated their full powers, found in good and due form, have agreed as follows.

Article I.

ACCESS TO COURTS OF LAW.

French citizens in Czechoslovakia and Czechoslovak citizens in France shall, subject to reciprocity, have free access to the Courts of Justice in the other country, whether as plaintiffs or defendants, and before all the courts of every instance established by law, so long as they comply with the legislation in force in that country. They shall be entitled to employ in all legal proceedings such counsel or representatives, of whatever category, as are authorised by the legislation of the country, and shall in all these respects be entitled to the same rights and privileges as are or may hereafter be granted to the nationals of the State in question.

The provisions in force in each of the two States regarding the language to be employed before the Courts shall not be affected by the provisions of the present Convention.

The term "national" shall include for the purposes of this Article and of Article 2 of the present Convention, civil and commercial, industrial, financial, insurance or any other business Companies, established in accordance with the laws of the two High Contracting Parties, whose seat is situated in their territory.

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.

Article 2.

SECURITY FOR COSTS.

No fee, security or deposit shall be exacted from the nationals of either High Contracting Party who institute proceedings before the Courts of the other Contracting Party, whether as plaintiffs or interveners, to which the nationals of the country in question would not, under its legislation, be liable under similar circumstances.

Article 3.

FREE LEGAL ASSISTANCE.

(a) Nationals of either High Contracting Party, whatever their place of domicile or residence, shall be entitled to the advantages of free legal assistance in the territory of the other High Contracting Party on the same terms as nationals of the later in any proceedings where such assistance is given to nationals.

(b) The advantages of free legal assistance granted in the territory of either High Contracting Party either to one of its own nationals or to a national of the other State in a case pending before the authorities of the country in question, shall be allowed on the territory of the other Party for the purpose of all proceedings relating to the same case.

Article 4.

CERTIFICATE OF INDIGENCE.

Certificates of indigence shall be issued to an indigent person :

(a) If he resides in the territory of either Party, by the authorities of the country in which his habitual residence is situated ;

(b) If he resides in the territory of a third State, by the authorities of the country in which his habitual residence is situated. If he has no habitual residence, or if he cannot obtain the certificate from the authorities of the country where he resides, the certificate shall be issued by the nearest diplomatic or consular agent of the State of which he is a national, or in default of such agent by the diplomatic or consular agent of the State in which the free legal assistance is to take effect.

The certificate of indigence shall be legalised free of charge by the diplomatic or consular agent of the State in which the free legal assistance is to take effect, if not issued by such agent himself.

The authority competent to issue a certificate of indigence shall be entitled to enquire of the authorities of the other Contracting Party as to the position of the indigent person.

The authorities responsible for the decision as to the request for legal assistance shall, within the limits of their powers, be entitled to scrutinise the certificate of indigence and the information furnished to them : if necessary, they may apply for such additional information as they may require to enable them to take a decision.

Article 5.

REQUEST FOR FREE LEGAL ASSISTANCE.

If the interested party resides in the country in which the application for free legal assistance is made, he shall submit his request in accordance with the local law.

If the interested party resides outside the country in which the application for free legal assistance is made, the request shall be submitted through the diplomatic channel. It shall be accompanied by any supporting documents in the case together with a translation thereof into the official language of the State to which the competent authority or tribunal belongs.

Article 6.

FREE DELIVERY OF DOCUMENTS CONCERNING LEGAL STATUS.

Indigent nationals of either High Contracting Party shall, in the territory of the other Contracting Party, be entitled free of charge to copies of documents concerning legal status in all cases in which the legislation of the country in which these documents are applied for allows similar favours to the nationals of the said country. The documents requisite for their marriages shall be legalised free of charge by the diplomatic or consular agents of the two High Contracting Parties.

Article 7.

AUTHORITIES TO WHICH JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS AND LETTERS OF REQUEST (*commissions rogatoires*) ARE TO BE TRANSMITTED.

Judicial and extra-judicial documents in civil and commercial matters addressed to persons residing in the territory of the Czechoslovak Republic, and letters of request in civil and commercial matters for execution in Czechoslovak territory, issued by French authorities, shall be transmitted without delay by the French diplomatic or consular agents to the President of the Czechoslovak Court of first instance (Court of Justice) within whose jurisdiction the recipient of the document is, or within whose jurisdiction the letter of request is to be executed.

Judicial and extra-judicial documents in civil and commercial matters addressed to persons residing in France, and letters of request in civil and commercial matters for execution in French territory, issued by Czechoslovak authorities, shall be transmitted without delay to the French Public Prosecutor within whose jurisdiction the recipient of the document is, or within whose jurisdiction the letter of request is to be executed.

If the authority to whom a document or letter of request is transmitted is not the competent authority for the purpose, he shall forthwith inform the diplomatic or consular agent making the request, and shall of his own motion transmit the document or letter of request to the competent authority of the same State.

In all cases where a document cannot be served to the recipient or a letter of request cannot be executed, the authority applied to shall forthwith inform the diplomatic or consular agent making the request, at the same time giving the reasons for which it has not been possible to give effect to the request.

Article 8.

REQUESTS FOR THE SERVICE OF DOCUMENTS AND EXECUTION OF LETTERS OF REQUEST (*commissions rogatoires*).

Requests for the service of judicial or extra-judicial documents by diplomatic or consular agents shall be drawn up in the official language of the State applied to. They shall indicate the nature of the document, the authority from whom the document emanates, the name and description of the parties, and the address of the recipient.

Requests for the execution of letters of request by diplomatic or consular agents shall be drawn up in the official language of the State applied to.

Article 9.

SERVICE OF JUDICIAL AND EXTRA-JUDICIAL DOCUMENTS.

The service of judicial or extra-judicial documents may be refused if the State in whose territory it is to be effected considers it such as to compromise its sovereignty or safety.

As a general rule the action of the authority applied to shall be confined to the service of the document to the recipient, whose acceptance of the same shall be voluntary. Proof of service shall be furnished either by a receipt dated and signed by the recipient or by a certificate of the authority of the State applied to establishing the fact, the manner and the date of the service. Either the receipt or the certificate shall be transmitted forthwith to the diplomatic or consular agent making the request. If the document for service is transmitted in duplicate, the receipt or the certificate may be given on one of the copies, which shall be returned.

In the event of refusal by the recipient to receive the document, the authority applied to shall return the same forthwith to the diplomatic or consular agent making the request, giving the reasons for which it has not been possible to effect the service.

If the diplomatic or consular agents expressly so request, the authority applied to shall cause the document to be served by a local public official, either in the manner laid down by the law of the State applied to or by some special mode of procedure, provided such procedure be not contrary to the law of the State applied to. In these two cases, but in these two cases only, the document to be served shall be accompanied by a translation in the official language of the State applied to. Such translation shall be certified correct either by the diplomatic or consular agent of the State making the request or by a sworn translator of the State applied to or of the State making the request.

Documents relating to execution and their annexes shall be sent to the diplomatic or consular agent making the request without translation.

Article 10.

COSTS OF SERVICE OF JUDICIAL OR EXTRA-JUDICIAL DOCUMENTS.

The costs of service of judicial or extra-judicial documents shall not be refunded.

Costs occasioned by the service of a document in the manner laid down by the local law or by some special mode of procedure shall be refunded.

The said costs shall be calculated in accordance with the tariff in force in the State applied to. Nevertheless, in cases where free legal assistance has been granted in accordance with the conditions laid down in Article 3, paragraph b), the only costs to be refunded shall be those occasioned by the resort to special procedure for the service of the document.

*Article 11.*EXECUTION OF LETTERS OF REQUEST (*commissions rogatoires*).

Letters of request shall be executed in accordance with the provisions of the law of the State applied to.

Witnesses whose evidence is required shall be invited to appear by simple notice. In the event of their refusal to comply with such notice, the authority applied to shall employ such compulsory measures as are provided by the law of the State applied to, in order to compel their attendance.

If the authority making the application expressly so requests, the authority applied to :

(1) Must execute the letter of request by special procedure, provided such procedure be not contrary to the law of the State applied to ;

(2) Must inform in good time the authority making the request of the date and place of execution of the letter of request, in order that the interested parties may be able to be present at the proceedings.

The authority applied to may refuse to execute a letter of request :

- (1) If the State in whose territory the execution is to take place considers it such as to compromise its sovereignty or safety ;
- (2) If in the State applied to the execution does not fall within the competence of the judicial authorities.

Letters of request must always be accompanied by a translation in the official language of the State applied to.

Such translation shall be certified correct by the diplomatic or consular agent of the State making the application or by a sworn translator of the State applied to or the State making the application.

Documents relating to the execution of letters of request and their annexes shall be sent to the diplomatic or consular agent making the application without translations.

Article 12.

COSTS OF EXECUTION OF LETTERS OF REQUEST (*commissions rogatoires*).

No costs shall be refunded in respect of the execution of letters of request, save in the following exceptional cases :

- (1) Costs of execution by special procedure ;
- (2) Costs of summoning witnesses in the form prescribed by the local law, when they have failed to comply with the notice served on them ;
- (3) Experts' fees ;
- (4) Cost of conveyance of parcels, when these cannot be sent by post.

Nevertheless, in cases where free legal assistance has been granted in accordance with the conditions laid down in Article 3, paragraph (*b*), the only costs to be refunded shall be those specified under (1) and (3) above.

Article 13.

GUARANTEE FOR REFUND OF COSTS.

The authority applied to may in no case incur expenditure, unless the refund of the same is guaranteed in the letter of the diplomatic or consular agent transmitting the application.

If the authority applied to is of opinion that the costs involved may amount to a considerable figure, he shall request the diplomatic or consular agent making the application to furnish confirmation of the said guarantee.

Article 14.

SERVICE OF DOCUMENTS AND EXECUTION OF LETTERS OF REQUEST BY CONSULS.

The two High Contracting Parties recognise each other's right :

- (1) To effect through their respective diplomatic and consular agents direct and without the possibility of resort to compulsion, the service of judicia or extra-judicial documents in civil and commercial matters in the territory of the other Party, whatever the nationality of the recipient ;
- (2) To have letters of request in civil and commercial matters executed by the above-mentioned agents direct and without the possibility of resort to compulsion, whatever the nationality of the person to be heard.

Article 15.

LEGALISATIONS.

Documents drawn up in the territory of one of the two States which are to take effect in the territory of the other State need only be legalised in the State in which they are drawn up (where legalisation is required by the law of the other State) : such legalisation shall be effected either by the President of a Court or his delegate or by a central Government department under the official seal of the said Court or Government department.

Article 16.

ADMISSIBILITY OF AUTHENTIC DOCUMENTS AND COMMERCIAL BOOKS.

Authentic documents drawn up in the territory of one of the two High Contracting Parties, and commercial books kept in that territory, shall be admitted as evidence before the Courts of the other Contracting Party to the extent allowable under the law of the State in which they were drawn up or kept, but their weight as evidence shall not be greater than that attached to documents and books of the same character drawn up or kept in accordance with the law of the other Contracting Party.

Article 17.

CERTIFICATION OF TEXTS OF LAWS.

The Ministries of Justice of each of the two High Contracting Parties shall deliver to the other Party, on a request being made through the diplomatic channel, certificates attesting the validity of legal texts specified in such request.

Article 18.

COURTS AND AUTHORITIES FOR PURPOSES OF GUARDIANSHIP OR CURATORSHIP.

The term " Courts " within the meaning of the present Convention shall include the authorities for purposes of guardianship or curatorship in the territory of the two High Contracting Parties.

Article 19.

ABROGATION OF PREVIOUS CONVENTIONS.

The Declaration of May 24, 1922, concerning the Transmission of Judicial and Extra-judicial Documents and Letters of Request in Civil and Commercial Matters and the Convention of October 7, 1922, with regard to Judicial Protection and Legal Assistance are hereby abrogated.

Article 20.

RATIFICATION, COMING INTO FORCE AND DENUNCIATION.

The present Convention shall be ratified, and the ratification shall be exchanged in Paris as soon as possible.

The present Convention shall come into force one month after the exchange of ratifications and shall continue to be in force for six months from the date of its denunciation by one of the two High Contracting Parties.

Article 21.

The French and Czechoslovak texts of the present Convention shall both be authoritative.

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

Done in duplicate at Paris, May 7, 1928.

(L. S.) (Signed) A. BRIAND.

(L. S.) (Signed) Stefan OSUSKY.

(L. S.) (Signed) Emil SPIRA.

(L. S.) (Signed) Karel HALFAR.