

N° 2991.

POLOGNE ET ROUMANIE

Convention relative à l'entr'aide et protection judiciaire en matière civile, avec protocole final. Signés à Bucarest, le 19 décembre 1929.

POLAND AND ROUMANIA

Convention regarding mutual Assistance and Legal Protection in Civil Matters, with Final Protocol. Signed at Bucharest, December 19, 1929.

¹ TRADUCTION. — TRANSLATION.

No. 2991. — CONVENTION² BETWEEN POLAND AND ROUMANIA, REGARDING MUTUAL ASSISTANCE AND LEGAL PROTECTION IN CIVIL MATTERS. SIGNED AT BUCHAREST, DECEMBER 19, 1929.

French official text communicated by the Roumanian Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations and by the Chargé d'Affaires a. i. of the Polish Delegation accredited to the League of Nations. The registration of this Convention took place July 9, 1932.

HIS MAJESTY THE KING OF ROUMANIA and THE PRESIDENT OF THE REPUBLIC OF POLAND, being desirous of settling the various questions relating to mutual assistance and legal protection in civil matters, have decided to conclude a Convention and have for this purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ROUMANIA :

His Excellency M. George G. MIRONESCO, Secretary of State in the Department of Foreign Affairs ;

THE PRESIDENT OF THE REPUBLIC OF POLAND :

His Excellency Count John SZEMBEK, Polish Envoy Extraordinary and Minister Plenipotentiary at Bucharest, and

M. JABŁOŃSKI, Head of Department in the Polish Ministry of Justice ;

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

CHAPTER I.

LEGAL PROTECTION.

Article 1.

In all matters relating to legal and judicial protection of their persons and property, nationals of either one of the High Contracting Parties shall enjoy the same treatment as nationals of the other.

They shall therefore have free and unhindered access to all the courts of law, of every instance, of the other Party ; they shall be entitled to appear in court and shall enjoy the privilege of legal aid under the same conditions and subject to the same formalities as nationals of the country. More particularly nationals of the High Contracting Parties shall not be liable for any security or

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 Warsaw, May 9, 1932.

deposit, of whatever description, by reason either of their being of foreign nationality, or of their not being domiciled or resident in the country where the proceedings have been instituted.

They shall also be entitled to employ the counsel authorised by the laws of the country and shall in this respect be entitled to the same rights and privileges as are or may in future be granted to the nationals of the country.

Article 2.

On application by the interested party, orders to pay the charges and expenses of an action made by the courts of one of the Contracting States against a plaintiff or intervener exempted from giving security or making a deposit or payment in virtue either of Article 1 of the present Convention or of the law of the State in which the action was brought, shall be enforced free of charge within the territory of the other country and in conformity with its laws. The same rule shall apply to decisions of the courts under which the costs of a case are fixed subsequently and to the statements of costs presented by the registrars of the courts within the limits of their powers and in virtue of decisions of the courts which have acquired the force of *res judicata*.

Article 3.

Decisions relating to costs shall be recognised as legally enforceable without the parties being heard, though, subject to appeal by the party against whom judgment has been entered, in conformity with the laws of the country in which enforcement is requested.

The authority competent to pronounce on the application for a recognition that the decision is legally enforceable shall confine itself to considering :

(1) Whether, under the laws of the country in which judgment was pronounced, the copy of the decision fulfils the various conditions of authenticity :

(2) Whether, under the same laws, the decision has acquired the force of *res judicata*.

For the purposes of paragraph 2, Nos. 1 and 2, a statement from the competent authority in the country where judgment was pronounced to the effect that the latter has acquired the force of *res judicata* shall be deemed sufficient.

The application shall be accompanied by a certified translation, in the language of the country applied to, of the substantive provisions of the judgment together with a statement to the effect that the decision has acquired the force of *res judicata*.

The translation shall be certified correct by a diplomatic or consular agent of the country in which judgment was pronounced or by a sworn translator in that country or in the country in which the judgment is to be enforced.

Article 4.

The certificate of indigence shall be issued by the authorities of the habitual place of residence of the person making application, or failing that, by the authorities of the actual place of residence.

If the applicant does not reside in the territory of either of the contracting countries, it shall be sufficient for him to produce a certificate of indigence issued by a diplomatic or consular agent of the country to which he belongs, who is competent for the purpose in virtue of the applicant's place of residence.

Article 5.

The authority competent to issue a certificate of indigence shall be entitled to enquire of the authorities of the other contracting country as to the applicant's financial position.

The authority responsible for the decision as to the request for free legal aid shall, within the limits of its powers, reserve the right to verify the certificates and information furnished.

CHAPTER II.

SERVICE OF LEGAL DOCUMENTS AND EXECUTION OF " COMMISSIONS
ROGATOIRES ".

SECTION I.

GENERAL PROVISIONS.

Article 6.

The High Contracting Parties undertake to give each other, on request, mutual assistance in civil and commercial matters and matters relating to voluntary jurisdiction.

Requests for legal aid shall, both in Poland and in Roumania, be transmitted by the consuls of the applicant countries to the President of the *arrondissement* tribunal within the jurisdiction of which the request is to be executed.

Courts situated within the jurisdiction of the Courts of Appeal of Lwów and Cernăuți respectively may, however, communicate with one another direct.

Should the authority to which application is made not be competent in the matter, it shall transmit the request, of its own motion, to the competent authority of the same country.

Documents establishing the execution of a request shall be transmitted direct to the applicant authority.

Article 7.

Requests for the service of documents and *commissions rogatoires* must be accompanied by a translation, in the language of the country applied to, certified correct by a sworn translator of the applicant country or by the consular or diplomatic agent of that country.

In urgent cases, if the applicant authority is unable to attach a translation, it shall be entitled to request the authority applied to to have the document duly translated, the cost being borne by the applicant authority.

As regards communication between the courts situated within the jurisdiction of the Courts of Appeal of Lwów and Cernăuți respectively, requests for the service of documents and *commissions rogatoires* shall be transmitted without translation.

Requests for the service of documents and *commissions rogatoires* shall bear the official seal of the applicant authority.

Article 8.

Whenever a request for legal aid is not executed by the authority applied to, the latter shall forthwith notify the applicant authority, specifying, in the case of Articles 13 and 19, the reasons for which execution of the request has been refused, and, in the case of Article 6, paragraph 4, the authority to which the request has been transmitted.

Article 9.

The execution of requests for the service of documents and of *commissions rogatoires* may not entail the repayment of charges or costs of any description.

Nevertheless, the country applied to shall be entitled to require the applicant country to refund allowances paid to witnesses or experts, together with all charges incurred in the event of the application of Article 7, paragraph 2, Article 12, paragraph 2, and Article 18, paragraph 2.

Postal charges shall in all cases be borne by the authorities by which the communications are despatched.

SECTION II.

SERVICE OF DOCUMENTS.

Article 10.

Requests for the service of documents shall state the name and address of the recipient, the nature of the document to be served, the names and descriptions of the parties to the suit and their domicile or residence.

Article 11.

Documents to be served must be drawn up in the language of the country applied to or be accompanied by a translation in that language. Translations must be certified correct by a sworn translator of the applicant country or by the consular or diplomatic agent of that country.

If the document to be served is not accompanied by the translation required under the preceding paragraph, the authority applied to shall confine itself to transmitting the document to the recipient, if the latter is willing to accept it.

Article 12.

As regards the procedure to be followed, documents shall be served in accordance with the laws of the country to which application is made.

Nevertheless, a request from the applicant authority that some special procedure may be followed shall be acceded to, provided that such procedure is not incompatible with the law of the country applied to.

Article 13.

The service of documents may be refused if the country in the territory of which it would be effected considers it such as to compromise its sovereignty or safety.

Article 14.

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

Should the document to be served have been transmitted in duplicate, the receipt or certificate shall be placed on one of the two duplicates or be attached thereto.

Article 15.

Each of the High Contracting Parties may serve legal documents upon its nationals in the territory of the other Party directly through its diplomatic or consular agents, though without threat or use of compulsion.

SECTION III.

“ COMMISSIONS ROGATOIRES ”.

Article 16.

Commissions rogatoires must mention the names and descriptions of the parties to the suit, their domicile or residence, the subject of the request, and further the names and addresses of the persons whose evidence should be taken, together with a brief summary of the case.

Article 17.

The judicial authority to which the *commission rogatoire* is addressed shall be required in giving effect thereto to employ the same compulsory measures as for the execution of a commission from the authorities of the country applied to or of an application to this effect by an interested party. Such compulsory measures shall not necessarily be employed to ensure the appearance before the authorities of the parties to the suit.

Should it so request, the applicant authority shall be informed when and where the proceedings will take place in order that the interested party may be able to attend or to be represented.

Article 18.

As regards the procedure to be followed, the *commission rogatoire* shall be executed in accordance with the laws of the country applied to.

Nevertheless, a request from the applicant authority that some special procedure may be followed shall be acceded to, provided that such procedure is not incompatible with the law of the country applied to.

Article 19.

Execution of the *commission rogatoire* may be refused if, in the country applied to, the measures to be taken do not fall within the functions of the judiciary or if the country applied to considers it such as to compromise its sovereignty or safety.

Article 20.

The judicial authorities of the High Contracting Parties shall, on request, be required to communicate to each other the relevant files and other documents. Such requests shall be governed by the rules laid down in the present Convention for *commissions rogatoires*.

Communication of files and documents may be refused, in addition to the cases provided for in Article 19 above, when such communication would give rise to particular difficulties.

In the latter case, refusal shall not, however, preclude communication of copies which shall be prepared at the expense of the applicant country.

CHAPTER III.

INFORMATION RELATIVE TO LAWS IN FORCE.

Article 21.

The Ministries of Justice of the High Contracting Parties shall, on request, supply each other with particulars of the laws in force in the territory of their respective countries and if necessary, of the judicial practice regarding specific questions.

CHAPTER IV.

DECLARATION OF ABSENCE, DISAPPEARANCE OR DEATH.

Article 22.

Declaration of the absence, disappearance or death of any person shall come within the competence of the authorities of the country of which such person was a national.

Decisions of the authorities mentioned in the previous paragraph which have acquired the force of *res judicata* shall be recognised in the territory of the other country.

In urgent cases, the authorities of each of the Contracting States shall have the right to take such provisional measures as may be necessary for the administration and preservation of the property of an absent national of the other country and for the safeguarding of the interests of third parties. Such measures shall be notified immediately to the country of origin and shall be rescinded as soon as the latter country shall itself have taken a final decision.

CHAPTER V.

DOCUMENTS, PAPERS AND THE LEGALISATION THEREOF.

Article 23.

Documents and papers drawn up or issued by the courts of one of the contracting countries and bearing an official seal may be used in the territory of the other country without legalisation.

The same rule shall apply to the documents of mortgage offices and deposit offices.

Article 24.

Documents and papers drawn up, issued or legalised by a notary, registrar or officer of the courts must be legalised before being used in the territory of the other contracting country. Such legalisation shall be effected by the President of the *arrondissement* Tribunal within the jurisdiction of which the said notary, registrar or officer of the courts exercises his functions.

Article 25.

Documents and papers drawn up, issued or legalised in the territory of one of the contracting countries by a Ministry and bearing an official seal, may be used in the territory of the other country without further legalisation being required.

Article 26.

Copies of or extracts from the registers of civil status of one of the High Contracting parties shall, before they can be used in the territory of the other Party, be legalised by the competent judicial or administrative authority.

Article 27.

Copies of documents and papers which it is intended to use in the territory of the other country, must be certified correct by the authorities by whom the original document was drawn up or issued.

Legalisation of such copies shall be effected according to the nature of the document, in conformity with the provisions of the present Convention.

Should the authority which drew up or issued the document or paper no longer exist, the copy shall be certified correct by the competent authority by which that authority has been replaced.

CHAPTER VI.

EXTRACTS FROM THE REGISTERS OF CIVIL STATUS.

Article 28.

The authorities of the High Contracting Parties shall, on request, communicate to each other information relative to entries in the registers of civil status or shall forward legalised copies thereof.

Requests shall be drafted in the language of the applicant country and shall be accompanied by a translation in French, certified correct by a sworn translator of the applicant country or by its diplomatic or consular agent.

Such requests shall be addressed, both in Roumania and in Poland, to the Ministry of the Interior. The authority responsible for keeping the registers of civil status shall transmit the document in question direct to the applicant authority.

If the request has been made expressly for official purposes, its execution shall not entail the repayment of costs.

Article 29.

The present Convention shall be ratified and the instruments of ratification exchanged at Warsaw as soon as possible.

It shall come into force two months after the date of the exchange of ratifications. Each of the High Contracting Parties may denounce it either in whole or in part. Stipulations which have been denounced shall continue to apply during a period of six months as from the date of denunciation.

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

Done, in duplicate, at Bucharest, December the nineteenth, one thousand nine hundred and twenty-nine.

(Signed) (L. S.) G. G. MIRONESCU.

(Signed) (L. S.) SZEMBEK.

(Signed) (L. S.) V. JABŁOŃSKI.

FINAL PROTOCOL.

When about to sign the Convention between Roumania and the Polish Republic regarding mutual assistance and legal protection in civil matters, the undersigned Plenipotentiaries agreed as follows :

(1) Before the putting into force of the present Convention the High Contracting Parties shall communicate to each other a list of their courts of law of every instance together with the areas under the jurisdiction of the various Tribunals and Courts of Appeal.

(2) The documents to be served in virtue of Article 13 shall contain no threat of penalties or compulsion.

(3) The High Contracting Parties shall agree upon the text of the forms to be used for requests for the service of documents, which forms shall be drawn up in the language of both countries.

(4) In Chapters IV and V of the present Convention, the expressions : " Declaration of absence, disappearance or death ", and " Documents, papers and the legalisation thereof ", have been employed in order to bring the terms used in the respective laws of the two countries into harmony.

The present Final Protocol shall form an integral part of the above-mentioned Convention and shall be ratified simultaneously.

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

Done at Bucharest, in duplicate, December the nineteenth one thousand nine hundred and twenty-nine.

(Signed) (L. S.) G. G. MIRONESCU.

(Signed) (L. S.) SZEMBEK.

(Signed) (L. S.) JABŁOŃSKI.