N° 2890.

LITHUANIE ET TCHÉCOSLOVAQUIE

Convention relative à la protection et à l'assistance judiciaire réciproque en matière de droit civil et commercial avec Protocole final. Signés à Kaunas, le 24 avril 1931.

LITHUANIA AND CZECHOSLOVAKIA

Convention concerning reciprocal Protection and Judicial Assistance in Matters of Civil and Commercial Law with Final Protocol. Signed at Kaunas, April 24, 1931.

[1] TRADUCTION. — TRANSLATION.

No. 2890. — CONVENTION [2] BETWEEN THE REPUBLIC OF LITHUANIA AND THE CZECHOSLOVAK REPUBLIC CONCERNING RECIPROCAL PROTECTION AND JUDICIAL ASSISTANCE IN MATTERS OF CIVIL AND COMMERCIAL LAW. SIGNED AT KAUNAS, APRIL 24, 1931.

French official text communicated by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations anl the Lithuanian Minister for Foreign Affairs. The registration of this Convention took place February 7, 1932.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC and THE PRESIDENT OF THE LITHUANIAN REPUBLIC, being desirous of settling the juridical relations between the two countries as regards reciprocal judicial assistance in matters of civil and commercial law, have decided to conclude a convention for this purpose and have appointed their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

M. Miloslav NIEDERLE, Doctor of Laws, Chargé d'Affaires *ad interim,*
M. Antonin KOUKAL, Doctor of Laws, Adviser to the Ministry of Justice ;

THE PRESIDENT OF THE LITHUANIAN REPUBLIC :

M. Dovas ZAUNIUS, Doctor of Laws, Minister for Foreign Affairs ;

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

CHAPTER I.

GENERAL PROVISIONS.

Article 1.

EQUALITY OF TREATMENT.

1. Nationals of each High Contracting Party shall enjoy in the territory of the other Party the same rights as nationals, as regards the juridical protection of their person and property.

[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, January 7, 1932.

2. They shall therefore be allowed free access to the Courts of the other country, and may apply to the Courts under the same conditions and in the same way as nationals.

3. Where the law of one of the two Contracting Parties lays down a special formula for the promulgation of the required reciprocity in relation to foreign countries, that condition shall be deemed to have been fulfilled by the present Convention.

4. The general provisions in force in each of the Contracting States concerning the language to be employed shall not be in any way modified by the present Convention.

CHAPTER II.

EXEMPTION FROM SURETIES AND DEPOSITS.

Article 2.

1. No surety or deposit of any sort may be required of nationals of one of the Contracting States having their domicile in one State and being petitioners or interveners in the Courts of another State, by reason of the fact that they are foreigners or are not domiciled or resident in the country in which the action is being brought.

2. The same rule shall apply to any payment into Court which petitioners or interveners may be required to make as an earnest for the payment of legal costs.

Article 3.

1. When, in the territory of one of the Contracting Parties, the petitioner or intervener exempted from sureties, deposits or payments into Court under Article 2 or under the laws of the country in which the action is brought, is ordered by the Court to bear the costs and expenses of the case, that order shall be enforced free of charge by the competent authorities of the oher State.

The request for enforcement shall be made in the manner defined in Article 8 of the present Convention. Certified true copies of the legal decisions concerning the costs and expenses of the case must be attached thereto, and must be accompanied by an affidavit issued by the competent judicial authority of the country in which the decision was given to the effect that the decision has become final. The competence of the judicial authority to make such a statement shall be vouched for in writing by its Ministry of Justice. There shall also be attached translations into the language of the country in which enforcement is required ; these translations shall be made or certified as correct either by the diplomatic or consular agent of the country in which the decision was given or by any sworn translator of one of the two contracting States.

The authority competent to accept or refuse the request for enforcement shall, if the parties so request, at the same time estimate the amount of the costs of attesting, translating and legalising the certified documents referred to in the first paragraph of the present Article. These costs shall be regarded as part of the costs and expenses of the case.

Authorisation of enforcement and execution of enforcement shall be governed by the internal laws of the State in which enforcement is carried out.

Unless the losing party subsequently appeals in conformity with the laws of the country in which enforcement is requested, the parties need not be heard.

2. The provisions of the preceding paragraph shall apply to judicial decisions stipulating that the costs of the case are to be determined subsequently.

CHAPTER III.

FREE LEGAL AID.

Article 4.

1. Nationals of one of the Contracting States shall, in the territory of the other State, be entitled to receive free legal aid under the same conditions as nationals.

2. The person accorded legal aid by the competent authority of one of the Contracting States shall also receive the said aid in respect of the stages of procedure connected with the same case which take place before the judicial authorities of the other State in conformity with the provisions of this Convention.

Article 5.

1. The certificate of indigence must be issued by the authorities of the country in which the petitioner ordinarily resides, or, if he has no regular place of residence, by the authorities of the country in which he happens to be.

2. If the petitioner does not reside in the country in which the request for free legal aid is made, the certificate of indigence shall be legalised free of charge by the diplomatic or consular agent of the country in which the document will have to be produced.

3. If the petitioner does not reside in the territory of one of the Contracting States, a certificate issued by the competent diplomatic or consular agent of the country of which he is a national, shall suffice.

Article 6.

If a party to the case, being domiciled or ordinarily resident in the territory of one of the Contracting States, desires to obtain free legal aid in a case to be heard on the Courts of the other State, he may submit his petition to the Courts or competent authorities of the country in which he is domiciled or ordinarily resident.

The competent authority of the other Contracting State shall grant free legal aid in the case with which it is dealing on the basis of the petition accompanied by a certificate of indigence.

Article 7.

1. The authority competent to issue or endorse the certificate of indigence may make the necessary enquiries of the authorities of the other country regarding the pecuniary situation of the petitioner.

2. The authority competent to accept or refuse the petition for free legal aid, shall, within the limits of its powers, be entitled to verify the certificates and information supplied and to obtain additional particulars for its further information.

CHAPTER IV.

SERVICE OF WRITS AND EXECUTION OF LETTERS OF REQUEST.

Article 8.

The Contracting Parties undertake to afford each other judicial assistance in matters of civil and commercial law.

Judicial assistance shall include :

(a) The service of summonses and other writs ;
(b) The execution of letters of request.

The writs to be served and letters of request to be executed shall be transmitted direct by the Ministry of Justice of the applicant State to the Ministry of Justice of the State applied to. These two Ministries shall ensure that the requests are dealt with speedily by the competent authorities. If the authority applied to has no jurisdiction in the case in point, the Ministry applied to shall inform the Ministry of the other State to what authority having jurisdiction the request has been transmitted.

The Ministries applied to shall return the requests whether they have been executed or not.

Article 9.

1. Requests for the service of writs and letters of request shall be drawn up in the official language of the applicant State and shall be accompanied by a translation into the language of the State applied to. The translation shall be made or certified as correct by a sworn translator of one of the two Contracting Parties. It may also be made by the applicant authority on its own responsibility.

2. The authority applied to may, at the request of the applicant authority and at the latter's expense, provide for the translation.

3. Requests for the service of writs and letters of request need not be legalised but must bear the seal of the authority which sends them.

Article 10.

CONTENTS OF REQUESTS.

1. Requests shall contain an indication of the subject and, if necessary, a brief statement of the case, shall specify the names of the parties to the case, their occupation, ordinary place of residence and, where required, their headquarters or temporary address and the quality in which they are parties to the case.

2. Requests for the service of writs shall also indicate the address of the person on whom the writ is to be served, the nature of the writ itself and, if required, also the manner in which writ is to be served.

Article 11.

ACTION TO BE TAKEN IN RESPECT OF REQUESTS.

1. Requests for the service of writs and letters of request shall be made in the form laid down by the laws of the State applied to.

2. Nevertheless, on the express request of the applicant authority, some special form may be used, provided it be not contrary to the laws of the State applied to.

3. Neither the document establishing the fact that the request has been complied with nor the accompanying documents, need be translated into the language of the applicant State.

Article 12.

1. The judicial authorities to whom a request for judicial assistance has been referred shall, when taking action in respect of it, apply the same measures of constraint which they would apply

for the enforcement of a similar request made by the authorities of their own State or of a request made for the same purpose by an interested party. The said means of constraint shall not necessarily be employed to compel the parties to appear, unless the law so requires.

2. The applicant authority shall, if it so desires, be informed of the date and place of enforcement, in order that the interested parties may be able to attend.

Article 13.

1. The enforcement of a letter of request may only be refused when its authentic character has not been proved, or when the measure to be taken is not within the competence of the judicial authority of the State applied to, or when the State in which the measure is to be carried out considers that this measure is incompatible with its sovereignty or security.

2. In such case the authority applied to shall immediately inform the applicant authority of the reasons for which enforcement of the letter of request has been refused.

Article 14.

Writs to be served on private persons need not be accompanied by a translation into the official language of the State applied to unless it is expressly stipulated that the writ must be served in the manner prescribed by the latter's laws. In all other cases, service of the writ shall be carried out by handing the document to the person for whom it is intended, provided the latter is willing to accept it.

Article 15.

1. Service of the writs referred to in Article 14 may only be refused if the State in whose territory service is to take place considers that such service is incompatible with its sovereignty or security.

2. In such case the provisions of Article 13, paragraph 2, shall also apply.

Article 16.

1. Proof of service shall be afforded either by a receipt given by the person on whom the writ is served and certified as correct by the authority applied to, or by an affidavit made out by the said authority, noting the fact, form, date and place of service.

2. If the writ to be served has been communicated in duplicate, the receipt or affidavit shall be made out on one of the two copies or shall be annexed thereto.

Article 17.

Each of the High Contracting Parties may serve judicial writs on its nationals who happen to be in the territory of the other Party direct through their diplomatic or consular agents but without threat or employment of constraint.

Article 18.

COST OF JUDICIAL ASSISTANCE.

1. For the service of writs and the enforcement of letters of request, no charge or repayment of expenses of any sort shall be demanded, apart from the sums paid by the State applied to to

witnesses and experts, and expenditure which may be incurred owing to a request for the employment of a special form of procedure. These costs shall be repaid without delay by the applicant State, whether they have or have not been recovered from the interested parties.

This last provision shall also apply in the cases specified in Article 4, paragraph 2.

2. The authority applied to shall, however, communicate to the applicant authority the amount of the expenditure incurred by it which, according to the first paragraph, is not repayable by the applicant State, in order that the authorities of the latter may recover these costs from the person who is under obligation to pay them. The applicant State shall retain the sums thus recovered.

3. Judicial assistance may not be refused on the ground that the applicant authority has not deposited a sum sufficient to cover the cost which has to be repaid under paragraph 1, unless the State applied to is entitled to claim a prepayment of this kind from its nationals.

4. The cost of postage shall be borne by the applicant authority.

CHAPTER V.

Legalisation and Value of Writs as Evidence.

Article 19.

1. Writs or documents drawn up, delivered or legalised by a Court or administrative authority of one of the two States shall not, provided they bear the official seal, require any subsequent legalisation to enable them to be produced before the judicial authorities of the other Contracting Party.

2. Writs or documents drawn up or legalised in the presence of a notary (notary public) must, in order that they may be used as specified in paragraph 1, be legalised by the Court.

3. Official documents signed by the Clerk of the Court shall, provided such signature is sufficient under the national laws, be regarded as judicial writs.

4. The list of the administrative authorities referred to in paragraph 1 shall be appended to the present Convention. The Contracting Parties shall communicate to each other any alteration which may be made in these lists subsequently.

Article 20.

Notarial acts drawn up in the territory of one of the Contracting Parties, as well as commercial registers kept in that territory shall possess, in the Courts of the other Contracting State, the same value as evidence as is ascribed to them by the laws of the State in which they originate. They shall, however, only possess such value as evidence as is ascribed to them by the laws of the State before whose Courts the case is brought.

CHAPTER VI.

Legal Information and Affidavits regarding Legal Provisions.

Article 21.

1. The Ministries of Justice of the two Contracting Parties shall supply each other free of charge, on request, with information concerning the law existing in the territory of their respective States and, if necessary, the case law established by their Courts on certain definite points.

2. The request must clearly indicate the questions of law regarding which information is required.

CHAPTER VII.

BANKRUPTCY PROCEEDINGS.

Article 22.

In proceedings connected with bankruptcy or composition with creditors commenced in the territory of one of the Contracting States, creditors who are nationals of the other State shall be treated on the same footing as creditors who are nationals of the country itself.

Article 23.

1. If within one State, proceedings in connection with bankruptcy or composition with creditors have been commenced in respect of the property of a national of the other Contracting State, the competent authority of the latter must be informed of the fact without delay.

The consular authorities, for their part, shall, provided they have received official notification of the case, inform the Court dealing with the bankruptcy as soon as possible, whether there is in the territory of their own State any movable or immovable property belonging to the bankrupt.

2. If there is reason to suppose that there are any interested creditors in the territory of the other State, the competent consular authority of that State must be supplied, in addition to the above-mentioned notification, with a copy of the public notice concerning the commencement of bankruptcy proceedings or proceedings for composition with creditors for publication in the proper official journals.

CHAPTER VIII.

ENFORCEMENT OF JUDICIAL DECISIONS.

Article 24.

GENERAL PROVISIONS.

Each of the Contracting Parties undertakes to authorise the enforcement, and to take steps to secure the enforcement, in its territory of any of the instruments hereinafter specified issued by the judicial authorities of the other Party which, according to the laws in force, constitute due authority for action in the territory of the latter.

Article 25.

The following instruments shall be recognised as constituting due authority for action :

(a) Judicial decisions, including orders to pay, given by civil Courts of every kind, including commercial Courts, within the territory of one of the two States, provided they have therein become executive.

The above shall apply to judicial decisions given in criminal matters concerning the compensation of injured parties.

(b) Arbitral awards given in one of the two Contracting States and having therein the same force as judicial decisions.

(c) Judicial compromises or compromises reached before arbitrators or arbitral tribunals in the territory of one of the two Contracting States, provided they have therein become executive.

The documents referred to in paragraphs *(a)* to *(c)* above must be submitted in the original or in certified true copy, attested by the competent Court of the State in which they were drawn up, as having therein become executive. In the case of arbitral awards and compromises reached before arbitrators or arbitral tribunals it shall be for the court of first instance within whose jurisdiction the award has been given, or alternatively in which the compromise has been reached, to attest that the award or compromise has become executive.

Article 26.

In so far as this Convention does not otherwise provide, enforcement shall take place in accordance with the procedure laid down by the laws of the State applied to.

Article 27.

1. The request for authorisation to enforce and for enforcement itself shall be deposited by the applicant with the Court which has issued the instrument. In the case of the enforcement of an instrument issued by an arbitral tribunal or an arbitrator, the request shall be deposited with the court of first instance referred to in the last paragraph of Article 25.

These Courts shall transmit without delay, through the Ministry of Justice, to the competent Court of the other Party, the request for authorisation and enforcement, together with the documents referred to in Article 25, after the latter have been duly attested as specified in the said Article.

2. The interested Party shall, however, be free to apply direct to the competent Court of the other Contracting State for authorisation and enforcement.

3. When making a request in conformity with the terms of the present Convention, the applicant must pay by way of advance a sum sufficient to cover any charges and expenses which may be incurred by the Court responsible for enforcement. The sum thus advanced shall be regarded as costs and expenses of procedure, and shall be repaid to the applicant as soon as it has been recovered from the debtor by means of enforcement.

The Ministries of Justice of the two countries shall communicate to each other periodically the amounts of the sums thus advanced.

4. The Court which is competent to authorise enforcement shall consider, in the light of the papers received, whether all the conditions have been fulfilled in order to warrant the required action. This enquiry, which must be terminated at the latest within fifteen days from the date on which the Court has received the writs, shall be limited to the following points :

(a) Whether the Court which has decided the case may be regarded as possessing proper jurisdiction according to the laws of the State in which the executive instrument was drawn up. In this connection it shall be sufficient that, according to the provisions concerning judicial jurisdiction in force in the State to which the demand for authorisation and enforcement has been submitted, no court of that State possesses exclusive jurisdiction to deal with the case in question :

(b) Whether the instrument constitutes due authority for action within the meaning of Article 25 ;

(c) If the judgment has been given by default, the Court must, if the defendant so requests, decide whether the latter was properly summoned to appear in conformity with the law of the State in which the decision was given, and whether the summons to appear reached him at a sufficiently early date ;

(d) Whether recognition and enforcement of the decision or of the compromise is not contrary to public order and the principles of public law of the State in which action has been called for.

5. Neither the Court which authorises enforcement nor that which carries it out shall be entitled to go into the merits of the case.

Article 28.

The Court which is competent to authorise enforcement shall, in accordance with its laws, allow the taking of provisional steps (for the safeguarding of interests) to secure the rights arising under the instrument constituting authority for the action in respect of the person against whom enforcement is requested, both within its own jurisdiction and within that of other Courts of the same country in which his property is situated.

These measures may only be rescinded if the person provides adequate surety to meet all rights arising under the instrument constituting authority for the action.

Article 29.

CONSERVATORY ACTION.

Even before the instruments referred to in Article 25 have become final, or the time-limit laid down for compliance has elapsed, the Court competent to authorise enforcement may, on a request submitted in due form, allow the taking of conservatory measures according to the provisions in force in the State applied to.

Article 30.

PROVISIONAL (CONSERVATORY) MEASURES.

Provisional (conservatory) measures shall be allowed even before the case has been heard, or during the hearing of the case, on the petition of the party whose interests are threatened, even if a Court of the other State has jurisdiction to decide the case in question.

CHAPTER IX.

FINAL PROVISIONS.

Article 31.

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

The present Convention shall come into force one month after the exchange of ratifications, and shall remain in force for six months as from the date on which one of the Contracting Parties may have denounced it.

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

Done in duplicate at Kaunas, on April 24, 1931.

(Signed) Dr. NIEDERLE. *(Signed)* Dr. KOUKAL. *(Signed)* ZAUNIUS.

FINAL PROTOCOL.

In proceeding to sign the Convention between the Czechoslovak Republic and the Republic of Lithuania concerning reciprocal protection and judicial assistance in matters of civil and commercial law, the undersigned Plenipotentiaries declare that they have agreed on the following points :

(1) It is understood that the provisions of the present Convention, in particular those referring to the legalisation of writs and the enforcement of judicial decisions shall govern the legal status only of nationals of the two Contracting Parties.

(2) The guardianship authorities in Slovakia and Sub-Carpathian Russia shall be regarded as Courts within the meaning of the Convention.

(3) Questions of private international law concerning the civil status of nationals, succession to property, jurisdiction and the effects of bankruptcy shall be regarded as reserved subjects to be dealt with in a future convention.

This Protocol shall form an integral part of the present Convention.

In faith whereof the Plenipotentiaries have signed this Protocol.

Done in duplicate at Kaunas, on April 24, 1931.

Dr. NIEDERLE. Dr. KOUKAL. ZAUNIUS.

LIST
REFERRED TO IN ARTICLE 19, PARAGRAPH 4, OF THE CONVENTION.

A.

CZECHOSLOVAK ADMINISTRATIVE AUTHORITIES.

1. Chancellery of the President of the Republic.
2. President's Office and Offices of the Chamber of Deputies of the National Assembly.
3. President's Office and Offices of the Senate of the National Assembly.
4. Office of the President of the Council of Ministers.
5. Ministry of Foreign Affairs.
6. Ministry of the Interior.
   Provincial administrations of Prague, Brno, Bratislava and Užhorod.
7. Ministry of Justice.
8. Ministry of Finance.
   Provincial Financial Directorates of Prague and Brno.
   Financial Directorate at Opava.
   Financial Directorate-General at Bratislava.
   Chief Financial Directorate at Užhorod.
   Offices of the Inspector of Finance at Prague and Brno.
9. Ministry of National Defence.
   Provincial Military Commands at Prague, Brno, Bratislava, Košice.
10. Ministry of Education and Public Worship.
    Provincial Education Councils of Prague and Brno.
11. Ministry of Social Relief.
12. Ministry of Public Health.

13. Ministry of Commerce.
Patents Office.
Chambers of Commerce and Industry at Prague, Plzeň, České Budějovice, Cheb, Liberec, Hradec Králové, Brno, Olomouc, Opava, Bratislava, Báňská Bystřice and Košice.
14. Ministry of Agriculture.
Directorates of Public Lands and State Forests at Prague, Liberec, Brandýs n./L., Třeboň, Frýdek, Zarnovice, Báňská Bystřice, Liptovský Gradek, Solivar, Užhorod, Buštin and Rachovo.
Ministerial Commission for Agrarian Transactions at Prague.
Provincial Commission for Agrarian Transactions at Brno.
State Agricultural Archives at Prague.
15. Ministry of Railways.
Railway Directorates of South Prague, North Prague, Plzeň, Hradec Králové, Brno, Olomouc, Bratislava and Košice.
16. Ministry of Post and Telegraphs.
Post Office Savings Bank at Prague.
Post Office Savings Bank, Brno Branch.
Administration of Motor Postal Transport, Prague.
Directorates of Post and Telegraph of Prague, Pardubice, Brno, Opava, Bratislava and Košice.
17. Ministry of Public Works.
Mines Administrations at Prague, Brno and Bratislava.
Secondary Mines Administrations at Prague, Slaný, Plzeň, Karlovy Vary, Chomutov, Most, Teplice-Sanov, Brno, Bánská Bystrice, Spišsá Nová, Ves, Rožnava and Berehovo.
State Mines Directorates at Most, Poruba, Príbram, Jáchymov, Bánská Štiavnica, Kremnica, Rožnava, Slatinské Doly.
Directorate of State Petroleum Wells at Gbely.
State Mines Administration at Železnik.
Administration of State Salt Works at Prešov.
State Directorate of Smelting and Steel Works for Slovakia at Podbrezova.
State Coal Depots at Prague.
State Office for the Sale of Mining and Metallurgical Products at Prague.
Central Inspectorate of Weights and Measures.
Office of the Hall-marking Service at Prague.
Directorates of State Aerodromes at Prague, Brno and Bratislava.
Administrations of State Aerodromes at Mariánské Lázne and Užhorod.
Czechoslovak Navigation Office at Prague.
Fluvial Navigation Offices at Prague and Bratislava.
Directorate for the Construction of Waterways at Prague.
18. Ministry for the Unification of Laws and the Organisation of the Administration.
19. Ministry of Food Supplies.
20. Supreme Court of Accountancy.
21. State Land Office.
22. National Statistical Office.

LIST
REFERRED TO IN ARTICLE 19, PARAGRAPH 4, OF THE CONVENTION.

B.

Lithuanian Administrative Authorities.

1. Chancellery of the President of the Republic.
2. Chancellery of the Council of Ministers.
3. Council of State.
4. Ministry of Finance.
5. Central Statistical Office.

6. Ministry of National Defence.
7. Ministry of Communications.
8. Directorate of Railways.
9. Directorate of Posts.
10. Ministry of Education.
11. University of Vytautas the Great.
12. Ministry of Justice.
13. Ministry of Foreign Affairs.
14. Court of Accountancy (State Control).
15. Ministry of the Interior.
16. Ministry of Agriculture.
17. Directorate of Agrarian Reform.
18. Chamber of Agriculture.
19. Chamber of Commerce and Industry.
20. Government of Klaipėda.
21. Directorate of Klaipėda.
22. Directorate of the Port of Klaipėda.
23. Archiepiscopal Curia of Kaunas.