

N° 3195.

**TCHÉCOSLOVAQUIE
ET TURQUIE**

Convention relative aux relations
réciproques en matière judiciaire,
civile et commerciale, avec proto-
cole et signature. Signés à Praha,
le 22 août 1930.

**CZECHOSLOVAKIA
AND TURKEY**

Convention concerning reciprocal
Relations in Judicial, Civil and
Commercial Matters, with Protocol
of Signature. Signed at Prague,
August 22, 1930.

¹ TRADUCTION. — TRANSLATION.

No. 3195. — CONVENTION² BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE TURKISH REPUBLIC CONCERNING RECIPROCAL RELATIONS IN JUDICIAL, CIVIL AND COMMERCIAL MATTERS. SIGNED AT PRAGUE, AUGUST 22, 1930.

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 June 6, 1933.

THE CZECHOSLOVAK REPUBLIC and THE TURKISH REPUBLIC, animated by the desire to regulate the judicial protection of Czechoslovak nationals in Turkey and Turkish nationals in Czechoslovakia in matters civil and commercial, as also the reciprocal support to be lent by the judicial authorities of the two countries to one another, have resolved to conclude a Convention to this effect, and have appointed their Plenipotentiaries, namely :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Pavel WELLNER, Doctor of Laws, Minister Plenipotentiary and Envoy Extraordinary of the Ministry of Foreign Affairs, and

Dr. Antonín KOUKAL, Doctor of Laws, Senior Counsellor of the Ministry of Justice ;

THE PRESIDENT OF THE TURKISH REPUBLIC :

Menemenli NUMAN Bey, Minister Plenipotentiary of the First Class, Under-Secretary of State of the Ministry of Foreign Affairs,

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

CHAPTER I.

JUDICIAL PROTECTION.

Article I.

EQUALITY OF TREATMENT.

1. Nationals of either Contracting State shall enjoy the same treatment in the territory of the other Contracting State as the nationals of the latter in respect of the legal and judicial 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 Ankara, March 6, 1933.

2. To this end, they shall have free access to the Courts, and shall be entitled to sue or be sued on the same terms and in the same manner as nationals.

Article 2.

EXEMPTION FROM SURETIES AND DEPOSITS.

1. Nationals of one Contracting State, domiciled in one Contracting State, who come as plaintiffs or interveners before the Courts of the other Contracting State, may not be required on the ground of being aliens, or not being domiciled or resident in the country, to give sureties or deposits of any description.

2. The same rule shall apply to payments required of plaintiffs or interveners as a guarantee of judicial costs.

Article 3.

1. Orders to pay judicial costs and charges made in the territory of one of the Contracting States against a plaintiff or intervener who is exempted from sureties or deposits or payments under Article 2, or under the laws of the country in which the case is brought, shall be made enforceable free of charge by the competent authority of the other State.

2. Application may be made through the diplomatic channel, or may be addressed direct to the competent authority of the party concerned.

3. The same rule shall apply to judicial decisions under which the amount of the costs is left to be fixed at a later date.

Article 4.

1. Decisions with regard to the costs and charges mentioned under Article 3 shall be declared enforceable without hearing the parties to the case, subject to subsequent appeal by the party mulcted in the costs, in conformity with the law of the country in which the order of the Court is enforceable.

2. The authority vested with the decision as to an application for enforcement shall consider solely :

(a) Whether the order has become legally binding under the law of the country in which it is made ;

(b) Whether the material part of the order is accompanied by a translation in the language of the State applied to or in French, certified by a diplomatic or consular officer of the State applying or by a sworn translator of the State applying or of the State applied to.

3. A declaration by the competent authority of the State applying to the effect that the order has become legally binding shall constitute sufficient compliance with the condition laid down in paragraph 2 (a). The competence of such authority shall be certified by the highest official of the Administration of Justice of the State applying. The declaration and certificate in such case must be translated in conformity with the stipulations contained in paragraph 2 (b).

4. The authority vested with the decision as to an application for enforcement shall decide, if the party so requests at the time, the amount of the costs of attestation, translation and legalisation for which paragraph 2 (b) provides. Such costs shall be regarded as part of the judicial costs and charges of the case.

Article 5.

FREE JUDICIAL ASSISTANCE FOR POOR PERSONS.

Nationals of one Contracting State shall be entitled in the territory of the other Contracting State to free judicial assistance for poor persons on the same terms as nationals.

Article 6.

1. The certificate of indigence shall be issued by the authorities of the habitual place of residence of the applicant or, in default of an habitual place of residence, by the authorities of his place of residence at the time of applying.

2. If the applicant does not reside in the country in which the application for free assistance is drawn up, the certificate of indigence shall be legalised free of charge by a diplomatic or consular officer of the State in which the document has to be produced.

3. If the applicant does not reside in the territory of one of the Contracting States, a certificate issued by the competent diplomatic or consular officer of the State to which he belongs shall suffice.

Article 7.

1. If the applicant resides in the country in which the application for free judicial assistance is drawn up, the competent authority for the issue of the certificate of indigence may procure the necessary information as to his financial position from the authorities of the country to which the applicant belongs.

2. The authority vested with the decision as to an application for free judicial assistance shall be entitled, within the limit of his powers, to verify the certificates and particulars supplied to him, and to require such further particulars as he may need for his information.

Article 8.

A party granted free judicial assistance by the competent authority of one Contracting State shall enjoy the same privilege for all proceedings in connection with the case transacted before the judicial authorities of the other State in conformity with the provisions of this Convention.

CHAPTER II.

CO-OPERATION OF JUDICIAL AUTHORITIES.

Article 9.

SERVICE OF DOCUMENTS.

1. In matters civil and commercial, the service of documents issued by the judicial authorities of one Contracting State and addressed to persons residing in the territory of the other Contracting State shall be effected on the request of the Consul of the State applying addressed to such authority as may be designated by the State applied to. The request, which shall contain the designation of the authority by which the document transmitted is issued, together with the names and descriptions of the parties, the address of the recipient and the nature of the document, shall be drawn up in the language of the State applied to. A translation of the document for service, legalised in conformity with the stipulations contained in Article 4, paragraph 2 (*b*), shall be attached to the request.

2. The authority to whom the request is addressed shall forward to the consul the papers proving service or indicating the circumstances preventing service. If he is not himself the authority locally competent to deal with the request, he shall transmit it of his own motion to the proper authority, at the same time informing the Consul of the action taken.

Article 10.

1. Service shall be effected by the competent authority of the State applied to. Save in the cases for which provision is made in paragraph 2, it shall be sufficient for the competent authority to serve the document by delivery to the recipient, provided the latter declares his willingness to receive it.

2. If the authority applying so requests, service shall be effected by the authority applied to in the manner laid down for such service by the municipal law of the State applied to or in any special manner not incompatible with such law.

Article 11.

Proof of service shall be furnished either by a dated and legalised receipt from the recipient, or by an attestation of the authority of the State applied to, stating the fact, manner and date of the service.

Article 12.

EXECUTION OF LETTERS OF REQUEST.

1. In matters civil and commercial, the judicial authority of one Contracting State may apply, in conformity with the law of his own State, by letter of request to the competent authority of the other State for the institution by the latter within his own jurisdiction of preliminary or other judicial proceedings.

2. The letter of request shall be transmitted by the Consul of the State applying to such authority as may be designated by the State applied to. It must be accompanied by a translation in the language of the State applied to, certified by a diplomatic or consular agent of the State applying or by a sworn translator of the State applying or of the State applied to.

3. The authority to which the letter of request is addressed shall forward to the Consul the papers proving execution of the letter or indicating the circumstances preventing it. If he is not himself the authority locally competent to deal with the letter of request, he shall transmit it of his own motion to the proper authority, at the same time informing the Consul of the action taken.

Article 13.

1. The judicial authority to which the letter of request is addressed shall be under obligation to comply therewith, and to resort to the same measures of compulsion as would be employed in the execution of requests by the authorities of his own country. Such resort to compulsion shall not be obligatory where the appearance in person of the parties to the dispute is concerned.

2. In the matter of procedure, the authority applied to shall follow the law of his own country in executing the letter of request, but shall comply with a request for special procedure from the State applying, provided such procedure is not incompatible with the law of the State applied to.

3. The authority applying shall be informed, if he so request, as to the date and place of execution of the letter of request, in order that the party concerned may be enabled to be present at the proceedings.

Article 14.

Any difficulties arising in connection with an application by a Consul for service of a document, or execution of a letter of request transmitted by him, shall be settled through the diplomatic channel.

Article 15.

REFUSAL OF SERVICE OF DOCUMENTS OR EXECUTION OF LETTERS OF REQUEST.

The service of a document or execution of a letter of request may be refused, if the State in whose territory it is to take place considers that it might compromise its sovereignty or security or public order. The execution of a letter of request may also be refused, if the authenticity of the document is not established, or if the execution does not come within the powers of the judicial authority within the territory of the State applied to.

Article 16.

COSTS OF SERVICE OF DOCUMENTS OR EXECUTION OF LETTERS OF REQUEST.

1. No costs or fees of any description may be exacted in respect of the service of documents or execution of letters of request.

2. Nevertheless the State applied to shall have the right to require the State applying to refund allowances paid to witnesses or experts, or costs occasioned by resort to official summons to secure the attendance of witnesses who have not appeared voluntarily, or costs arising out of the recourse to special procedure for the service of documents or execution of letters of request.

Article 17.

SERVICE OF DOCUMENTS AND EXECUTION OF LETTERS OF REQUEST BY DIPLOMATIC OR CONSULAR AGENTS.

1. Either of the Contracting States shall be entitled to have the service of documents effected by diplomatic or consular agents on its own nationals within the territory of the other State directly and without resort to compulsion.

2. The same shall apply to the execution of letters of request.

3. In the event of difficulties arising in the application of this Article, recourse shall be had to the procedure laid down in Articles 9 and 12 of the present Convention.

Article 18.

LEGAL INFORMATION AND ATTESTATION OF PROVISIONS OF LAW.

Each Contracting Party shall supply the text of the laws in force in its own territory, together with any other such legal information as may be required, on the request of a judicial authority of the other Party transmitted through the diplomatic channel.

The request must specify the point of law on which information is required.

CHAPTER III.

FINAL PROVISIONS.

Article 19.

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

2. The Convention shall enter into force three months after the exchange of ratifications. It may be denounced by either State, but shall remain in force for six months from the date of its denunciation.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Prague, August 22, one thousand nine hundred and thirty.

(L. S.) Dr. WELLNER.

(L. S.) Dr. KOUKAL.

(L. S.) M. NUMAN.

PROTOCOL OF SIGNATURE.

At the moment of proceeding to the signature of the Convention of this day's date between the Czechoslovak Republic and the Turkish Republic concerning Reciprocal Relations in Judicial, Civil and Commercial Matters, the undersigned Plenipotentiaries have agreed as follows :

The two Parties are in accord as to the possibility of a special agreement being concluded, if thought fit, between the two Governments concerning the abolition of the formalities of legalisation in the case of judicial documents.

They are furthermore agreed that the value as evidence of public documents drawn up in the territory of one of the Contracting Parties shall be determined in the territory of the other Party by the law of the State in which they are drawn up, provided always that such value shall in no case be greater than it would be under the laws of the Party in which the proceedings are pending.

Done in duplicate at Prague, August 22, one thousand nine hundred and thirty.

Dr. WELLNER.

Dr. KOUKAL.

M. NUMAN.